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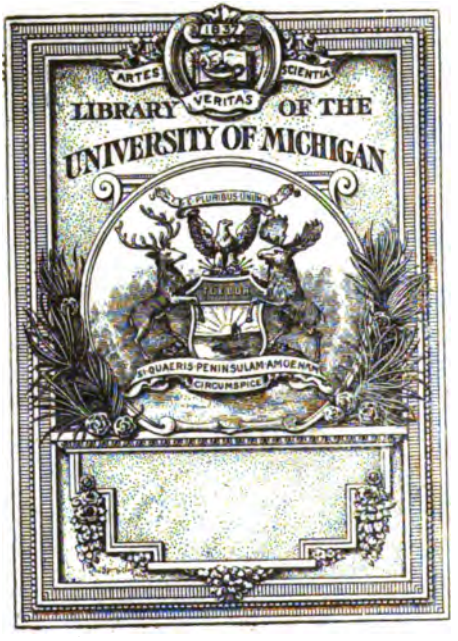

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The Attorney-General

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ANNUAL REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF MICHIGAN

FOR THE

FISCAL YEAR ENDING JUNE 30, A. D. 1904

CHARLES A. BLAIR

ATTORNEY GENERAL

BY AUTHORITY

LANSING, MICHIGAN
WYNKOOP HALLENBECK CRAWFORD CO., STATE PRINTERS
1905

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ATTORNEY GENERAL'S OFFICE.

CHARLES A. BLAIR, Attorney General.

HENRY E. CHASE, Deputy Attorney General.

ASSISTANTS.

ROGER IRVING WYKES.

CHARLES W. MCGILL.

GEORGE S. LAW.*

THOMAS AMBROSE LAWLER.

MICHAEL P. BOURKE.

EDWARD H. HOLMES.

CLERKS.

HENRY G. CASSEY. FRED H. HADRICH.

STENOGRAPHERS.

DWIGHT B. HINKLEY. M. B. THOMPSON.

*Chief Law Clerk.

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ATTORNEYS GENERAL OF THE STATE OF MICHIGAN

SINCE 1836.

APPOINTED.

DANIEL LE ROY	July 18, 1836-1837
PETER MORLEY	March 21, 1837-1841
ZEPHANIAH PLATT	March 4, 1841-1843
ELON FARNSWORTH	March 9, 1843-1845
HENRY N. WALKER	March 24, 1845-1847
EDWARD MUNDY	March 12, 1847-1848
GEORGE V. N. LOTHROP	April 3, 1848-1850

ELECTED.

WILLIAM HALE	1851-1854
JACOB M. HOWARD	1855-1860
CHARLES UPSON	1861-1864
ALBERT WILLIAMS	1865-1866
WILLIAM L. STOUGHTON	1867-1868
DWIGHT MAY	1869-1872
BYRON D. BALL (a)	1873-1874
ISAAC MARSTON	April 1, 1874-1874
ANDREW J. SMITH	1875-1876
OTTO KIRCHNER	1877-1880
JACOB J. VAN RIPER	1881-1884
MOSES TAGGART	1885-1888
STEPHEN V. R. TROWBRIDGE (b)	1889-1890
BENJAMIN W. HUSTON	March 25, 1890-1890
ADOLPHUS A. ELLIS	1891-1894
FRED A. MAYNARD	1895-1898
HORACE M. OREN	1899-1902
CHARLES A. BLAIR	1903-1904

(a) Resigned April 1, 1874. Isaac Marston appointed to fill vacancy.

(b) Resigned March 25, 1890. Benjamin W. Huston appointed to fill vacancy.

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ANNUAL REPORT.

STATE OF MICHIGAN,
Attorney General's Office,
Lansing, July 1, 1904.

To the Legislature of the State of Michigan:

In compliance with the law, I have the honor herewith to present the annual report of the business of this department for the fiscal year ending June 30, 1904; including an abstract of the official reports of the Prosecuting Attorneys of the Counties of the State, showing the number of prosecutions, convictions, acquittals, etc.

Two indexes have been prepared, one being a complete index of the report entire, the other an alphabetical table of the various cases which have come under the supervision or control of this department during the fiscal year.

Legal questions of a public character submitted to this department have been carefully considered and opinions rendered, a few of which such as are deemed of interest to the public, are presented in this report, and represent but a small portion of the aggregate number of opinions prepared.

The various matters contained in this report are systematically arranged under the title of Schedule A. to R. inclusive, and classified as follows:

SCHEDULE A.—Page 10—Statement of criminal and habeas corpus cases of which the Attorney General had charge during the fiscal year ending June 30, 1904.

SCHEDULE B.—Page 16—Statement af mandamus cases of which the Attorney General had charge during the fiscal year ending June 30, 1904.

SCHEDULE C.—Page 20—Statement of quo warranto proceedings, instituted by the Attorney General upon his own relation, or upon the relation of some other person, over which the Attorney General had supervision or control, during the fiscal year ending June 30, 1904.

SCHEDULE D.—Page 22—Statement of chancery cases conducted by the Attorney General during the fiscal year ending June 30, 1904.

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SCHEDULE E.—Page 40—List of chancery and other cases referred to the Prosecuting Attorneys of the various counties in which commenced and left in their charge. These are cases wherein some State officer has been made a party, or in which the State has some interest.

SCHEDULE F.—Page 41—Statement of assumpsit cases, appeals under inheritance tax law, certiorari cases, disbarment proceedings, ejectment cases, replevin cases, trespass cases, and other cases of which the Attorney General had charge during the fiscal year ending June 30, 1904.

SCHEDULE G. Page 58—Contains a list of cases in which costs of suit were taxed by and paid to the State, during the fiscal year ending June 30, 1904.

SCHEDULE H.—Page 59—Statement of money collected and turned over to the State Treasurer during the fiscal year ending June 30, 1904, from esfates which had escheated to the State and on account of the claim of the State of Michigan against the City Savings Bank.

SCHEDULE I.—Page 60—Statement of money collected and turned over to the State Treasurer, through the efforts of the Attorney General, with the cooperation of the Medical Superintendents of the various asylums, and the Judges of Probate of the various counties, during the fiscal year ending June 30, 1904, as a reimbursement to the State, for the support of certain insane persons at State asylums.

SCHEDULE J.—Page 62—List of Insurance Companies whose articles of association, amendments to articles of association, etc., have been approved during the fiscal year ending June 30, 1904, and a statement of the amount of money received as approval fees.

SCHEDULE K.—Page 64—Statement of money collected and turned over to the State Treasurer through the efforts of the Attorney General, also including the sum received as fees for approving articles of association, etc., of Insurance Companies, for the fiscal year ending June 30, 1904.

SCHEDULE L.—Page 65—Official opinions, rendered during the fiscal year, which are deemed to be of general interest.

SCHEDULE M.—Page 136—Abstract of the semi-annual reports of the Prosecuting Attorneys of the official business of the various counties, for the fiscal year ending June 30, 1904.

SCHEDULE N.—Page 145—Recapitulation of the semi-annual reports of the Prosecuting Attorneys of the official business of their respective counties, during the fiscal year ending June 30, 1904.

SCHEDULE O.—Page 148—List of counties and county seat, with name and address of Prosecuting Attorneys.

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SCHEDULE P.—Table of Cases, alphabetically arranged.

SCHEDULE Q.—Index of names of opinions.

SCHEDULE R.—General Index to report, subjects of opinions, etc.

Respectfully submitted,

CHARLES A. BLAIR,

Attorney General.

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SCHEDULE "A."

Contains a list of all criminal cases brought to the Supreme Court on exception, writ of error, certiorari, and habeas corpus, whether disposed of or pending, in which the Attorney General has appeared, or which are of general interest to those intrusted with the administration of the criminal laws of the State.

UNITED STATES SUPREME COURT.

CASES DISCONTINUED.

William VanPelt, Plaintiff in error, Defendant and Appellant v. The People of the State of Michigan, Defendant in error, Plaintiff and Appellee. Violation of the game laws. Discontinued by stipulation under date of July 10, 1903. Order entered in pursuance thereof, dated October 13, 1903.

MICHIGAN SUPREME COURT.

CASES DECIDED.

People v. George Hossler. Exceptions from Bay Circuit Court. Manslaughter. Affirmed. Reported in 10 D. L. N. 798; 97 N. W. 754.

People v. Samuel Robinson. Error to Eaton Circuit Court. Violation of the local option law. Affirmed. Reported in 10 D. L. N. 857; 98 N. W. 12.

People v. Thomas F. McGarry. Exceptions from Allegan Circuit Court. Bribery. Affirmed. Reported in 11 D. L. N. 11; 99 N. W. 147.

People v. Joseph W. Stockwell. Error to Genesee Circuit Court. False pretenses. Affirmed. Reported in 10 D. L. N. 805; 97 N. W. 765.

People v. Isaiah Row. Error to Oceana Circuit Court. Rape. Reported in 10 D. L. N. 841; 98 N. W. 13.

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People v. William Remus and William J. Remus. Exception from Van Buren Circuit Court. Violation of the local option law. Conviction set aside and new trial ordered. Reported in 10 D. L. N. 907; 98 N. W. 397.

People v. Emory H. Hinshaw. Exceptions from Saginaw Circuit Court. Violation of the pure food law. Affirmed. Reported in 10 D. L. N. 795; 97 N. W. 758.

People v. Luther J. Rall. Exceptions from Eaton Circuit Court. Violation of the local option law. Affirmed. Reported 10 D. L. N. 858; 98 N. W. 3.

People v. John Gray. Error to Otsego Circuit Court. Unlawful use of dynamite. Affirmed. Reported in 10 D. L. N. 869; 98 N. W. 261.

People v. Calvin Bird. Error to Ionia Circuit Court. Violation of the liquor law. Reversed and new trial ordered. Reported in 11 D. L. N. 461; 100 N. W. 1003.

People v. Edwin Rice. Error to Wexford Circuit Court. Violation of the liquor law. Affirmed. Reported in 11 D. L. N. 133; 99 N. W. 860.

People v. Lant K. Salsbury. Exceptions from Grand Rapids Superior Court. Bribery. Affirmed. Reported in 10 D. L. N. 596; 96 N. W. 936; 134 Mich. 537.

People v. John Barlow. Error to Lenawee Circuit Court. Complained or for bringing pauper into county. Affirmed. Reported in 10 D. L. N. 478; 96 N. W. 482; 134 Mich. 394.

People v. Francis Dowell. Error to Lenawee Circuit Court. Assault with intent to commit rape. Reversed and new trial ordered. Reported in 11 D. L. N. 19; 99 N. W. 23.

People v. Oliver P. Shuler, Sr. Exceptions from Eaton Circuit Court. Violation of the local option law. Affirmed. Reported in 10 D. L. N. 1004; 98 N. W. 986.

People v. Frank Marston. Exceptions from Grand Rapids Superior Court. Assault with intent to commit rape. Affirmed. Reported in 10 D. L. N. 757; 97 N. W. 713.

People v. Erick Lundell. Exceptions from Wexford Circuit Court. Violation of the liquor law. Affirmed. Reported in 11 D. L. N. 1; 99 N. W. 12.

People v. Benjamin S. Harris. Exceptions from Kent Circuit Court.

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Violation of the pure food law. Reversed. Defendant discharged. Reported in 10 D. L. N. 694; 97 N. W. 402.

People v. Fred Blanchard and John McLeod. Error to Houghton Circuit Court. Robbery. Affirmed. Reported in 10 D. L. N. 1003; 98 N. W. 983.

People v. E. B. Longwell. Exceptions from Van Buren Circuit Court. Violation of the local option law. Reversed and new trial ordered. Reported in 10 D. L. N. 1049; 99 N. W. 1.

People v. Otto Klammer. Exceptions from St. Clair Circuit Court. Larceny from burning building. Affirmed. Reported in 11 D. L. N. 306; 100 N. W. 600.

People v. August Kriesel. Error to Cass Circuit Court. Violation of the liquor law. Affirmed. Reported in 10 D. L. N. 972; 98 N. W. 850.

People v. John Muste. Error to Grand Rapids Superior Court. Murder in the second degree. Conviction set aside and new trial ordered. Reported in 11 D. L. N. 267; 100 N. W. 455.

People v. John W. Horling, Bert Horling and John Horling. Error to Ottawa Circuit Court. Illegal fishing with a net. Affirmed. Reported in 11 D. L. N. 319; 100 N. W. 691.

People v. John Portenga. Exceptions from Muskegon Circuit Court. Assault with intent to commit rape. Affirmed. Reported in 10 D. L. N. 415; 96 N. W. 17; 134 Mich. 247.

People v. William Wilson. Certiorari to the Houghton Circuit Court. Bastardy. Reversed and new trial ordered. Reported in 10 D. L. N. 1047; 99 N. W. 6.

People v. Frank Wilson, impleaded with John Johnson and Timothy Spellman. Error to Wayne Circuit Court. Burglary. Affirmed. Reported in 95 N. W. 536; 133 Mich. 517. Motion for rehearing submitted September 15 and denied September 22, 1903. No opinion filed on rehearing.

HABEAS CORPUS CASES DECIDED.

In re Charles Worden. Habeas Corpus. Prisoner discharged. No opinion filed.

Petitioner applied for writ to secure the release of his son from the Industrial School at Lansing, alleging that his detention therein was illegal for the reason that the docket of the justice by whom he was sentenced did not show that any trial was had or that he was committed to the institution by any judgment or sentence of said court.

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In re John Harney. Petition for writ of habeas corpus. Discharged. Reported in 10 D. L. N. 579; 96 N. W. 795; 134 Mich 527.

In re James Collins and Charles Collins. Petition for writ of habeas corpus. Petition dismissed and petitioners remanded. Reported in 10 D. L. N. 682; 97 N. W. 151.

CASES DISMISSED.

People v. Harry Brunke. Exceptions from Berrien Circuit Court. Manslaughter. Appeal dismissed January 15, 1904.

CASES PENDING.

People v. John DeBlaay. Error to Kent Circuit Court. Violation of the hawkers and peddlers' law.

People v. LeRoy Kuney. Error to Lenawee Circuit Court. Aiding in escape of inmate from Industrial School for Girls at Adrian.

People v. J. L. Congdon. Exceptions from Van Buren Circuit Court. Violation of the liquor law.

People v. James Mol. Exceptions from Grand Rapids Superior Court. Bribery.

People v. Joseph Possing. Error to Leelanau Circuit Court. Violation of the liquor law.

People v. Gerrit H. Albers. Exceptions from the Superior Court of Grand Rapids. Bribery.

People v. William Begeski. Error to Berrien Circuit Court. Murder.

People v. Frank E. Hutchings. Error to Recorder's Court Detroit. Larceny.

People v. Fobes C. Jewell. Exceptions from Livingston Circuit Court. Larceny of a public document.

People v. John H. Farrell. Exceptions from Missaukee Circuit Court. Murder.

People v. Jacob P. Ellen. Error to Grand Rapids Superior Court. Bribery.

People v. William Peck. Exceptions from Muskegon Circuit Court. Larceny.

People v. Monroe J. McPhee. Error to Chippewa Circuit Court. Lottery.

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People v. Jacob Nagle. Error to Berrien Circuit Court. Larceny.

People v. Frank C. Andrews. Error to Recorder's Court of Detroit. Violation Banking Law.

PENDING:

In re William J. Lambrecht. Petition for writ of habeas corpus.

In re John M. Leonard. Petition for writ of habeas corpus.

MICHIGAN CIRCUIT COURT.

HABEAS CORPUS CASES DECIDED.

In re William Jordan and John LaFave. Habeas corpus. Petition dismissed and petitioner remanded. Jackson Circuit Court.

The petitioners made separate application for habeas corpus to obtain release from imprisonment in the State Prison in the city of Jackson on the ground that their respective offenses of which they were convicted were committed before Act No. 136 of the Public Acts of 1903, known as the indeterminate sentence act, took effect, yet each was sentenced to such prison under such act. Jordan was sentenced for the maximum of ten years and a minimum of eight years; LaFave for a maximum of two years and a minimum of one year. Under Section 11548, C. L. 1897, the crime for which Jordan was punishable by imprisonment was not more than ten years, no minimum being provided. LaFave, under Section 11688, C. L. 1897, was liable to imprisonment for not more than three years or by a fine not exceeding five hundred dollars or imprisonment in the county jail not more than one year. It was conceded that the indeterminate sentence act was not applicable to offenses committed before it took effect. The Court, basing its opinion on the case of The People v. Dane, 81 Mich. 36, held that the sentences were good for the minimum period fixed by the courts imposing them as if actually pronounced under the old law, and to the extent of the minimum period fixed by these sentences should be deemed to have been pronounced under the statutes without reference to the indeterminate sentence act.

In re Mark Barnes. Habeas corpus. Jackson Circuit Court.

Mark Barnes was convicted in the St. Clair Circuit Court of desertion, and sentenced to the State Prison at Jackson under an information charging the offense to have been committed prior to the taking effect of the law making desertion a felony.

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In re William Johnson. Habeas corpus. Petition dismissed and petitioner remanded. Ingham Circuit Court.

The only question before the court was, whether the commitment, under which the Superintendent of the Industrial School for Boys held William Johnson, was void on its face. The commitment recited "In this cause the defendant, William Johnson, having been brought before Horace E. Ross at the township of Wayland, to answer the complaint of Frank Fox, charging that said William Johnson was guilty of the larceny of twenty-five cents from the store in the day time. * * * Adjudged and determined that he, the said William Johnson in manner and form as charged against him." It was contended that the court was without jurisdiction as the sentence showed that he had been sentenced to the School for the commission of a felony punished by Section 11550, C. L. 1897; the statute providing "every person who shall steal in the day time in any store, etc." The court held "That the addition of the words 'from the store in the day time,' if it alleged the particular store in which the stealing took place, would bring the charge up to the grade of a felony. Not doing so, it charged no more than simple larceny, which was within the jurisdiction of the justice."

CASES DISCONTINUED.

In re John Harney. Petition for writ of habeas corpus. Jackson County Circuit Court.

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SCHEDULE "B."

Contains a list of mandamus cases, certiorari and other proceedings commenced by the Attorney General in behalf of the State, or commenced by other parties, in which the State is interested.

UNITED STATES SUPREME COURT.

MANDAMUS CASES DECIDED.

Grand Rapids and Indiana Railway Company v. Chase S. Osborn, Commissioner of Railroads. Writ of error to review mandamus. Affirmed. Reported in 193 U. S. 13.

MICHIGAN SUPREME COURT.

MANDAMUS CASES DECIDED.

Board of Supervisors of the County of Alcona v. The Auditor General and the Commissioner of the State Land Office. Mandamus. (No. 19898.) Writ granted. Reported in 10 D. L. N. 1019; 98 N. W. 975.

Detroit United Railway, a corporation v. Board of State Tax Commissioners and Board of Assessors of the city of Detroit. Mandamus. Writ denied. Reported in 10 D. L. N. 993; 98 N. W. 997.

Charles Clippinger v. The Auditor General. Mandamus. Writ denied. Reported in 10 D. L. N. 664; 97 N. W. 53.

Edwin J. Phelps, as Treasurer of the Michigan Asylum for the Insane at Kalamazoo v. Perry F. Powers, Auditor General. Mandamus. Writ denied. Reported in 11 D. L. N. 86; 99 N. W. 374.

Frank Hoffman v. The Auditor General. Mandamus. Writ granted, with costs against Flint Land Company, Limited. Reported in 11 D. L. N. 201; 100 N. W. 181.

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Vine Harding, Myrtle G. H. Renaud, Trudie B. Allen, Ida R. Post, Florence I. Gardner, and Nina R. Harding v. The Auditor General. Mandamus. Writ granted. Reported in 11 D. L. N. 33; 99 N. W. 275.

Herbert E. Spafford v. Clyde C. Chittenden, Circuit Judge, Benzie County. Mandamus. Writ granted. Reported in 10 D. L. N. 959; 98 N. W. 741.

William C. Beebe v. The Commissioner of the State Land Office. Mandamus. Writ denied. Reported in 11 D. L. N. 197; 100 N. W. 128.

Schuyler S. Olds v. William A. French, Commissioner of the State Land Office. Mandamus. Affirmed on rehearing. Reported in 10 D. L. N. 517; 96 N. W. 508; 134 Mich, 442-450.

Marion Kennedy v. The Auditor General. Mandamus. Writ denied. Reported in 10 D. L. N. 583; 96 N. W. 928; 134 Mich. 534.

John J. Oliver, receiver of the Imperial Life Insurance Company v. Daniel McCoy, State Treasurer. Mandamus. Order granted. No opinion filed. The petitioner, John Oliver, receiver of the Imperial Life Insurance Company, prayed for an order directing the State Treasurer to turn over to him all of the securities deposited with the treasurer by the said company, of which he was receiver, upon his filing with the State Treasurer a bond, properly executed in such sum as the Court should determine.

Henry L. Morehouse v. Perry F. Powers, Auditor General of the State of Michigan. Mandamus. Writ denied. No opinion filed. Petitioner prayed that the Auditor General be compelled to consider an application made by him to pay all back taxes that were a lien on certain lands owned by him. The Auditor General refused for the reason that an application, antedating the one made by Morehouse, had been made by another person.

Fred M. Warner, Secretary of State, v. The Newaygo Portland Cement Company. Writ denied. No opinion filed. (Should have applied to Circuit Court.) Mandamus to compel the Newaygo Portland Cement Company through its proper officers to make duplicate reports to the said Secretary of State for each of the fiscal years 1900, 1901 and 1902, stating in each in detail all the matters required to be reported to the Secretary of State by section twelve of chapter 188 of the compiled laws of 1897, and all such information required to be reported under the provisions of section twelve of said chapter 188, as amended.

Board of Supervisors of Alcona County v. The Auditor General and the Commissioner of the State Land Office. Mandamus. No. 19,898. Writ granted. Reported in 10 D. L. N. 1019; 98 N. W. 975.

John Monaghan v. Auditor General. Mandamus. Writ granted. Reported in 10 D. L. N. 1025; 98 N. W. 1021. Motion for re-hearing pending.

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CASES PENDING.

Arthur A. Grimm v. Fred M. Warner, Secretary of State. Mandamus.

William C. Weber v. Perry F. Powers, Auditor General. Mandamus.

Peter Radebaugh v. The Michigan State Board of Registration in Medicine. Mandamus.

Michigan Land and Lumber Company, Limited v. The Commissioner of the State Land Office. Mandamus.

Board of Supervisors of Alcona County v. The Auditor General and the Commissioner of the State Land Office. Mandamus. No. 19,845. Issues of fact certified to court below.

Schuyler S. Olds v. William A. French, Commissioner of the State Land Office. The Michigan Land & Lumber Company, Intervenor.

Albert A. Griffin v. The Auditor General. Mandamus.

CERTIORARI.

John R. Bennett v. John M. Carr. Certiorari. Affirmed. Reported in 10 D. L. N. 407; 96 N. W. 26; 134 Mich. 243.

John J. Tweddle v. Richard L. Newnham, Judge of the Superior Court of Grand Rapids. Certiorari. Order adjudging plaintiff guilty of contempt vacated. Reported in 10. D. L. N. 445; 96 N. W. 22; 134 Mich. 237.

Attorney General ex rel. W. D. Fuller v. Board of Supervisors of Oceana County. Certiorari to the Oceana Circuit Court to review mandamus. Proceedings were instituted in the Oceana Circuit Court to compel the board of supervisors to meet and submit to the qualified electors of said county the question "Should the manufacture of liquor and the liquor traffic be prohibited within said county?" they having refused to do so on petitions of the electors of said county laid before them by the clerk of said county on January 20, 1903, which application was denied by said court March 4, 1903. The records and proceedings were removed to the Supreme Court by writ of certiorari issued to the Judge of Circuit Court for the County of Oceana. The Supreme Court upon an examination of the records and proceedings found manifest error appearing therein, and ordered that the order of the lower court be vacated and the writ issued as prayed. Writ issued August 26, 1903.

CASES PENDING.

In re Frank W. Palmer. Certiorari.

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MICHIGAN CIRCUIT COURT.

Charles A. Blair, Attorney General v. The Village Council of the Village of Buchanan. Berrien Circuit Court. Alternative writ of Mandamus issued October 1, 1903.

CASES PENDING.

Chase S. Osborn, Commissioner of Railroads v. Detroit Grand Haven and Milwaukee Railway Company. Mandamus. Wayne Circuit Court.

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SCHEDULE "C."

Contains a list of quo warranto proceedings commenced either by the Attorney General on his own relation, or by him upon relation of some other person.

MICHIGAN SUPREME COURT.

CASES DECIDED.

Charles A. Blair, Attorney General, ex rel., James J. Hurley v. Charles T. Bridgman, Flint P. Smith, William A. Patterson, Francis H. Rankin, William F. Stewart, William E. Braman, George H. Durand, William H. Edwards and Mathew Davison. Quo warranto. Writ denied. Reported in 10 D. L. N. 499; 96 N. W. 438; 134 Mich. 379.

CASES PENDING.

Horace M. Oren, Attorney General, ex rel., Edward N. Breitung v. The Iron Cliffs Company, et al. Quo warranto.

Charles A. Blair, Attorney General, ex rel., Waldo T. Potter v. Donald McVichie, Murray M. Duncan, Anson B. Miner, Walter Fitch, and Solomon S. Curry. Quo warranto.

Charles A. Blair, Attorney General, ex rel., Salem B. Bentley, v. James A. Muir. Quo warranto. Supreme Court. No. 20475.

MICHIGAN CIRCUIT COURT.

CASES DECIDED.

Horace M. Oren, ex rel., Thomas G. Shepard v. Curtis W. Stendell, Edward S. Tangburn and Lafayette Peavey. Quo warranto. Information quashed February 12, 1904. Calhoun Circuit Court.

CASES DISCONTINUED.

Horace M. Oren, Attorney General of the State of Michigan v. The Tontine Surety Company of New Jersey. Quo warranto.

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Horace M. Oren, Attorney General, Relator v. The Tontine Surety Co. of New Jersey, Respondent. Quo warranto. Wayne Circuit Court. Quo warranto to oust respondent, from the exercise of franchises and privileges not conferred upon it by law. May 22, 1901, notice that respondent had ceased to do business in Michigan was received by the Secretary of State, and it appearing that no further proceedings are necessary, the case is here reported as settled.

Horace M. Oren, Attorney General, Relator v. The Co-operative Home Owners Association, Limited, Battle Creek, Respondent. Quo warranto. Calhoun Circuit Court. At the time this proceeding was instituted, a bill of complaint was filed by the Attorney General in the Calhoun Circuit Court, in Chancery, under the statute, asking that the respondent association be restrained from continuing the business until judgment at law had been rendered in the quo warranto proceeding. A temporary injunction was issued, (p. 28, 1903 report) after which respondent ceased doing business.

Horace M. Oren, Attorney General v. The Tontine Savings Association of Minnesota. Quo warranto. Wayne Circuit Court. Proceedings were instituted against the Association to oust it from the exercise of franchises and privileges not conferred upon it by law. About March 20, 1902, the charter of the Association was forfeited by the courts of Minnesota, consequently no further proceedings were ever taken in this case. Later persons connected with the Association organized the DeVore Diamond Company, assumed the business of the Association and continued to transact the same in this State through one Frank W. Parsons. The Attorney General on December 5, 1902, instituted proceedings in the Wayne Circuit Court to restrain the said Parsons from conducting the business of the Company in Michigan. (See Attorney General v. Frank M. Parsons. 1903 report, pp. 27 and 28; Attorney General v. George S. Hosmer et al., 1903 report, p. 14.)

CASES PENDING.

Charles A. Blair, Attorney General v. Escanaba Electric Street Railway Company. Quo warranto. Delta Circuit Court.

Charles A. Blair, Attorney General v. Escanaba Water Company. Quo warranto. Delta Circuit Court.

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SCHEDULE "D."

Contains a list of chancery cases commenced, determined or pending, in which some State officer has been made a party or in which the State has some interest.

UNITED STATES SUPREME COURT.

CASES DECIDED.

Merritt Chandler v. Roscoe D. Dix, Auditor General; James H. Kerr, County Treasurer of Alpena County; Thomas D. James, County Treasurer of Cheboygan County; Herman Lunden, County Treasurer of Montmorency County; Allen S. Martindale, County Treasurer of Otsego County, and Louis Bruder, County Treasurer of Presque Isle County. Affirmed. Reported in 194 U. S. 590.

CASES PENDING.

The United States of America v. The State of Michigan.

UNITED STATES CIRCUIT COURT FOR THE WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION, IN EQUITY.

CASES PENDING.

Chicago & Northwestern Railway Co. v. Perry F. Powers, Auditor General.

Escanaba & Lake Superior Railroad Co. v. Perry F. Powers, Auditor General.

Copper Range Railroad Co. v. Perry F. Powers, Auditor General.

Manistee & Northeastern Railroad Co. v. Perry F. Powers, Auditor General.

Detroit Mackinac Railway Co. v. Perry F. Powers, Auditor General.

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Chicago, Milwaukee & St. Paul Railway Co. v. Perry F. Powers, Auditor General.

Duluth, South Shore & Atlantic Railway Co. v. Perry F. Powers, Auditor General.

Mineral Range Railroad Co. v. Perry F. Powers, Auditor General.

Grand Trunk Western Railway Co. v. Perry F. Powers, Auditor General.

Detroit, Grand Haven & Milwaukee Railway Co. v. Perry F. Powers, Auditor General.

Chicago, Detroit and Canada Grand Trunk Junction Railroad Co. v. Perry F. Powers, Auditor General.

Cincinnati, Saginaw & Mackinaw Railroad Co. v. Perry F. Powers, Auditor General.

Michigan Air Line Railway Co. v. Perry F. Powers, Auditor General.

St. Clair Tunnel Co. v. Perry F. Powers, Auditor General.

Toledo, Saginaw & Muskegon Railway Co. v. Perry F. Powers, Auditor General.

Michigan Central Railroad Co. v. Perry F. Powers, Auditor General.

Sault Ste. Marie Bridge Co. v. Perry F. Powers, Auditor General.

Lake Superior & Ishpeming Railway Co. v. Perry F. Powers, Auditor General.

The Marquette & Southeastern Railway Co. v. Perry F. Powers, Auditor General.

Munising Railway Co. v. Perry F. Powers, Auditor General.

Gogebic & Montreal River Railroad Co. v. Perry F. Powers, Auditor General.

Grand Rapids & Indiana Railway Co. v. Perry F. Powers, Auditor General.

Lake Shore & Michigan Southern Railway Co. v. Perry F. Powers, Auditor General.

The Pontiac, Oxford & Northern Railroad Co. v. Perry F. Powers, Auditor General.

Wisconsin & Michigan Railway Co. v. Perry F. Powers, Auditor General.

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Pere Marquette Railroad Co., Saginaw, Tuscola & Huron Railroad Co., Grand Rapids, Belding & Saginaw Railroad Co., Grand Rapids, Kalkaska & Southeastern Railroad Co., and Bay City Belt Line Co. v. Perry F. Powers, Auditor General.

Minneapolis, St. Paul & Sault Ste. Marie Railway Co. v. Perry F. Powers, Auditor General.

The Ann Arbor Railroad Co. v. Perry F. Powers, Auditor General.

CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF MICHIGAN, NORTHERN DIVISION, IN EQUITY.

CASES PENDING.

The United States of America v. Charles Chapman, State Game and Fish Warden of the State of Michigan; Charles E. Brewster, Chief Deputy State Game and Fish Warden of the State of Michigan.

UNITED STATES CIRCUIT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION, IN EQUITY.

CASES PENDING.

Edwin W. Bishop v. Michigan Savings and Loan Association and George Lord, Chief of the Building and Loan Division of the State Department.

The Pacific Express Company v. Perry F. Powers, Auditor General of the State of Michigan, and the State Board of Assessors.

Thomas C. Platt, as President of the United States Express Company v. Perry F. Powers, Auditor General of the State of Michigan, and the State Board of Assessors.

James C. Fargo, as President of the American Express Company v. Perry F. Powers, Auditor General of the State of Michigan and State Board of Assessors.

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MICHIGAN SUPREME COURT.

CASES DECIDED.

Perry F. Powers, Auditor General v. John Newman. Petition to foreclose tax liens upon certain lands. Appeal from Oceana Circuit Court, in chancery. Reversed. Reported in 10 D. L. N. 721; 97 N. W. 703.

In the matter of the petition of Perry F. Powers, Auditor General, for the sale of certain lands for the taxes of 1900 and previous years. In re petition of James E. Sherman v. The Auditor General. Appeal from Gogebic Circuit Court, in chancery. Reversed. Reported in 10 D. L. N. 1011; 98 N. W. 995.

CASES PENDING.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1899 and prior years. In re petition of Two Rivers Manufacturing Company v. Auditor General. Appeal from Marquette Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1901 and prior years. In re petition of Eugene Carpenter v. The Auditor General. Appeal from Osceola Circuit Court, in chancery.

In the matter of the petition of Perry F. Powers, Auditor General, for the sale of certain lands for the taxes assessed thereon for the year 1898 and prior years. Perry F. Powers, Auditor General v. Clifford and McCann. Appeal from the Midland Circuit, in chancery.

MICHIGAN CIRCUIT COURT.

CASES DECIDED.

In re petition of the Auditor General for the sale of certain lands for the taxes of 1892 to 1898, inclusive. In re F. J. Newberry v. Auditor General, Alpena Circuit Court, in chancery. Decree entered July 20, 1903.

Samuel L. Smith et al. v. The Auditor General and Albert S. Heinemann. Appeal from Marquette Circuit Court, in chancery. Decree dismissing petition entered November 27, 1903.

In re petition of the Auditor General for the sale of certain lands for for the taxes of 1890, and the years 1882 to 1886, inclusive. In re Samuel A. Davidson v. William J. Rea and the Auditor General. Montmorency Circuit Court, in chancery. Decree entered March 20, 1903.

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Charles A. Blair, ex rel., W. P. Norton et al. v. Board of Health of Leavitt Township, Oceana County, Michigan. Oceana Circuit Court, in chancery. Decree entered April 7, 1904.

In re petition of the Auditor General for the sale of certain lands for the taxes of 1897. In re Charles B. Payfer v. The Auditor General. Montmorency Circuit Court, in chancery. Decree entered March 20, 1903, setting aside the tax sale and tax.

Charles A. Blair, Attorney General, ex rel., Sedgwick Dean, et al. v. The City of Ann Arbor, et al. Ingham Circuit Court, in chancery. Decree in favor of the complainant granted November 10, 1903. A bill was filed to prevent the city of Ann Arbor from changing the course and grade of certain streets and elevating the tracks of the Ann Arbor Railroad, as provided in an ordinance passed on or about the twenty-ninth day of September, A. D. 1902, by the common council of said city.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1891 to 1896, inclusive. In re petition of Joseph H. Cobb v. The Auditor General. Alpena Circuit Court, in chancery. Decree granted April 28, 1903, setting aside sales and taxes.

F. J. Newberry v. State of Michigan. Alpena Circuit Court, in chancery. Decree entered July 20, 1903.

CASES DISCONTINUED.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1889 and other years. In re petition of Joseph Pellera to set aside the sale of SE ¼ of SE ¼ and SW ¼ of SE ¼, Sec. 9, Town 29, North Range 7 East, for the taxes assessed for the year 1889. Alpena Circuit Court, in chancery. Discontinued by stipulation.

Elizabeth Armstrong v. The Flint Land Company, Limited, and The Auditor General. Iosco Circuit Court, in chancery. Petition filed to set aside sale of certain lands for taxes of 1895 and 1898. Discontinued by stipulation filed Nov. 24, 1903.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1893. In re petition of Albert McClatchey. Bay Circuit Court, in chancery. Discontinued.

James Johnson and Charles L. Dolph v. The Commissioner of the State Land Office, the Auditor General, William Looker, William Ross, Ronald Ross, and Peter Siglock. Roscommon Circuit Court, in chancery. Discontinued by stipulation, without costs to either party.

In re petition of the Auditor General for the sale of certain lands for the taxes of 1893. In re petition of Albert McClatchey v. The Auditor General. Bay Circuit Court, in chancery. Discontiued on payment of the tax.

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In re petition of the Auditor General for the sale of certain lands for the taxes of 1897. In re petition of Daniel D. Hanover v. The Auditor General. Alpena Circuit Court, in chancery. Discontinued.

Horace M. Oren, Attorney General, ex rel., George A. Truman v. John Saul, Daniel S. Simmons, Edward S. Waters and Wilmot M. Langley, Township Board of Munising Township. Alger Circuit Court, in chancery. Decree filed and entered December 29, 1903.

In re petition of the Auditor General for the sale of certain lands for the taxes assessed thereon. J. C. Tietz v. The Auditor General. Menominee Circuit Court, in chancery. Discontinued.

Herbert L. Reed v. The Auditor General et al. Alpena Circuit Court, in chancery. Discontinued by stipulation.

George M. Dayton v. The Auditor General et al. Alpena Circuit Court, in chancery. Discontinued by stipulation.

Thomas J. Armstrong v. The Flint Land Company, Limited, and The Auditor General. Iosco Circuit Court, in chancery. Discontinued by stipulation filed Nov. 24, 1903.

CASES SETTLED.

William B. Dixon v. Kirk Ludington, William A. French, Commissioner of The State Land Office et al. Bill to cancel homesteader's deed. Appeal from Alcona Circuit Court, in chancery. Decree filed in favor of complainant Oct. 20, 1903. (See report 1903, p. 218.)

CASES PENDING.

Malcolm McPhee et al. v. The Commissioner of the State Land Office, Fred L. Richardson. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1899. In re petition of Henry Beebe v. The Auditor General and John A. Miller. Alpena Circuit Court, in chancery. Stipulation of discontinuance filed, Nov. 24, 1903.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1899. In re petition of Henry Beebe v. The Auditor General and John A. Miller. Alpena Circuit Court, in chancery.

Eugene Carpenter v. Perry F. Powers, Auditor General, Charles Slesdet, Fred Anderson, and Christian Prefrock. Osceola Circuit Court, in chancery.

Lillias L. Carpenter v. Perry F. Powers, Auditor General, Daniel McCoy, State Treasurer, B. N. Savidge, Burton Halliday, John Witt, J. H. McQuistan, Henry Miller, John Brambery, Enic Anderson, Henry Swem, Obed R. Rathburn, and Clarinda M. Richardson. Osceola Circuit Court, in chancery.

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In the matter of the petition of the Auditor General for the sale of certain lands for taxes assessed thereon. In re petition of Charles Keating v. The Auditor General, the Commissioner of the State Land Office, and Swan Rode. Alpena Circuit Court, in chancery.

Charles A. Blair, Attorney General v. The American Radiator Company. Ingham Circuit Court, in chancery.

Charles A. Blair, Attorney General v. The National Biscuit Company. Ingham Circuit Court, in chancery.

Alexander McQueen v. Perry F. Powers, Auditor General. Bill to set aside taxes. Montmorency Circuit Court, in chancery.

In re petition of Herman Besser to set aside sales of certain lands for taxes of 1887 to 1896, inclusive. Montmorency Circuit Court, in chancery.

In re petition of Herman Besser to set aside sales of certain lands for taxes of 1881 to 1886, inclusive. Montmorency Circuit Court, in chancery.

Cedar River Land Company, a corporation v. John Corcoran and Perry F. Powers, Auditor General. Menominee Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1891 and prior years. In re petition of Henry Platz v. The Auditor General and Arthur N. Englehardt. Petition for review. Presque Isle Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1891 and prior years. In re petition of Henry Platz v. The Auditor General and William Spens. Petition for review. Presque Isle Circuit Court, in chancery.

Benjamin C. Morse v. Commissioner of the State Land Office and the Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes assessed thereon for the years 1882 to 1893, inclusive. Montmorency Circuit Court, in chancery.

M. J. Sherwood v. John J. Levy and the Auditor General. Bill to set aside certain tax sale. Alger Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1901. In re The Union Trust Company of Detroit and Chester L. Collins v. The Auditor General. Bay Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1889 to 1899, inclusive. In re Estate of Charles H. Killmaster, deceased v. The Auditor General. Alcona Circuit Court, in chancery.

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In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1899. In re petition of Lydia Fobert, Josephine Bartley, Mary Bartley, James Bartley, Malvinia Bartley, Margaret Bartley, by Jeremiah Donovan, their next friend v. The Auditor General, Carlton E. McDonald, et al. Bay Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes assessed thereon. In re petition of Estate of Albert Pack v. The Auditor General. Montmorency Circuit Court, in chancery.

Burr C. Thomas v. The State Board of Registration in Medicine. Wayne Circuit Court, in chancery.

James D. Kennedy v. The State Board of Registration in Medicine. Wayne Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the year 1884. In re petition of Francis J. McGinty v. Max B. Englefeldt and the Auditor General. Alpena Circuit Court, in chancery.

Francis J. McGinty v. The Auditor General. Alpena Circuit Court, in chancery.

Charles A. Blair, Attorney General v. The Michigan Indemnity Society of Detroit, Michigan. Wayne Circuit Court, in chancery.

Delray Land Company, Limited, Henry M. Campbell and James Joy v. Township of Springwells, Harry Stansfield, Supervisor of the Township of Springwells and the Board of State Tax Commissioners. Wayne Circuit Court, in chancery.

Henry Bolton v. The Auditor General, the Commissioner of the State Land Office and the Hecla Portland Cement and Coal Company, and Detroit Trust Company. Alpena Circuit Court, in chancery.

Estate of George N. Fletcher v. The Auditor General and the Commissioner of the State Land Office. Alpena Circuit Court, in chancery.

Henry K. Gustin v. The Auditor General, the Commissioner of the State Land Office, The Hecla Portland Cement and Coal Company and the Detroit Trust Company. Alpena Circuit Court, in Chancery.

Huron Land Company, Limited v. The Auditor General, the Commissioner of the State Land Office, Edward H. Gillman, trustee, and The Turtle Lake Hunting and Fishing Club. Alpena Circuit Court, in chancery.

David D. Oliver v. The Auditor General and the Commissioner of the State Land Office. Alpena Circuit Court, in chancery.

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Peter Owens v. The Auditor General, the Commissioner of the State Land Office and Herschel H. Hatch. Alpena Circuit Court, in chancery.

Fred L. Richardson v. The Auditor General and the Commissioner of the State Land Office. Alpena Circuit Court, in chancery.

John A. Widner v. The Auditor General and the Commissioner of the State Land Office. Alpena Circuit Court, in chancery.

Charles B. Williams v. The Auditor General, the Commissioner of the State Land Office, Edward H. Gillman, trustee, et al. Alpena Circuit Court, in chancery.

Charles B. Williams v. The Auditor General and the Commissioner of the State Land Office. Alpena Circuit Court, in chancery.

Charles B. Williams v. The Auditor General, the Commissioner of the State Land Office, Gilbert Olson and Mrs. Gilbert Olson. Alpena Circuit Court, in chancery.

Estate of George N. Fletcher v. The Auditor General, the Commissioner of the State Land Office, Robert Beutel, and Morris L. Courtright. Alpena Circuit Court, in chancery.

Henry Platz, Administrator of the Estate of Fred Lincoln, deceased v. The Auditor General, the Commissioner of the State Land Office, Albert C. Beutel, Mrs. Albert C. Beutel and Isabella Seymour. Alpena Circuit Court in chancery.

Archie McArthur v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1887 to 1889, inclusive, and 1891. In re petition of Archie McArthur v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1892, inclusive, and 1894. In re petition of Henry Bolton. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1894, inclusive. In re petition of the Estate of George N. Fletcher v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1882, 1884 and 1887 to 1893, inclusive. In re petition of Henry K. Gustin v. The Auditor General. Alpena Circuit Court, in chancery.

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In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of The Huron Land Company, Limited v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884 inclusive, and 1887 to 1893 inclusive. In re petition of David Oliver v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1884, 1887 to 1893, inclusive. In re petition of Peter Owens v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1884 and 1887 to 1893, inclusive. In re petition of Peter Owens v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of Henry Platz, Administrator of the Estate of Fred Lincoln, deceased v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of Fred L. Richardson v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1887 to 1893, inclusive. In re petition of John A. Widner v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of Charles B. Williams v. The Auditor General. Alpena Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1890 to 1893, inclusive. In re petition of Charles B. Williams v. The Auditor General. Alpena Circuit Court, in chancery.

Peter Owens v. The Auditor General, the Commissioner of the State Land Office, the Hecla Portland Cement and Coal Company, and The Detroit Trust Company. Alpena Circuit Court, in chancery.

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Alger, Smith and Company v. The Auditor General. Alcona Circuit Court, in chancery.

S. A. Colwell v. The Auditor General. Alcona Circuit Court, in chancery.

Charles Conklin v. The Auditor General. Alcona Circuit Court, in chancery.

Robert W. Dunn v. The Auditor General. Alcona Circuit Court, in chancery.

E. Goheen v. The Auditor General. Alcona Circuit Court, in chancery.

H. M. Louds' Sons Company v. The Auditor General. Alcona Circuit Court, in chancery.

John McGregor v. The Auditor General. Alcona Circuit Court, in chancery.

Eri Toland v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, 1887 to 1893, inclusive. In re petition of Frank G. Cowley. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1887 to 1893, inclusive. In re petition of L. A. Colwell v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes assessed thereon for the years 1887 to 1893, inclusive. In re petition of Minnie A. Conklin v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of Robert W. Dunn v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of the Estate of George N. Fletcher v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of The Gustin Land Company, Limited v. The Auditor General. Alcona Circuit Court, in chancery.

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In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of The Huron Land Company, limited v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of the Estate of Charles H. Killmaster v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1889 to 1899, inclusive. In re petition of the Etate of Charles H. Killmaster v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of the Estate of Albert Pack v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1882 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of the Estate of Albert Pack and George R. Nicholson v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of Clarence C. Sanborn v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1883 to 1884, and 1887 to 1893, inclusive. In re petition of E. H. Toland v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of E. H. Toland and Henry K. Gustin v. The Auditor General. Alcona Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1883, inclusive, and 1887 to 1893, inclusive. In re petition of Charles B. Williams v. The Auditor General. Alcona Circuit Court, in chancery.

Llewellyn A. Colwell v. The Auditor General and the Commissioner of the State Land Office. Alcona Circuit Court, in chancery.

Minnie A. Conklin v. The Auditor General and the Commissioner of the State Land Office. Alcona Circuit Court, in chancery.

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Frank G. Cowley v. The Auditor General, the Commissioner of the State Land Office, Thomas Galbraith, Mrs. Thomas Galbraith, John Newhouse and Mrs. John Newhouse. Alcona Circuit Court, in chancery.

Robert W. Dunn v. The Auditor General, et al. Alcona Circuit Court, in chancery.

The Estate of George N. Fletcher v. The Auditor General, the Commissioner of the State Land Office, B. R. Briggs, et al. Alcona Circuit Court, in chancery.

Henry K. Gustin and E. H. Toland v. The Auditor General and the Commissioner of the State Land Office. Alcona Circuit Court, in chancery.

The Gustin Land Company, Limited v. The Auditor General and the Commisioner of the State Land Office. Alcona Circuit Court, in chancery.

Huron Land Company, Limited v. The Auditor General, the Commissioner of the State Land Office, Albert Farrar, Mrs. Albert Farrar, William D. Brown and Mrs. William D. Brown. Alcona Circuit Court, in chancery.

The Estate of Charles H. Killmaster v. The Auditor General, the Commissioner of the State Land Office, Joseph Thompson, et al. Alcona Circuit Court, in chancery.

George R. Nicholson and the Estate of Albert Pack v. The Auditor General, the Commissioner of the State Land Office, Alexander Cornelius, Mrs. Alexander Cornelius, et al. Alcona Circuit Court, in chancery.

The Estate of Albert Pack v. The Auditor General and the Commissioner of the State Land Office. Alcona Circuit Court, in chancery.

Clarence C. Sanborn v. The Auditor General, the Commissioner of the State Land Office, Christ Olson and Mrs. Christ Olson. Alcona Circuit Court, in chancery.

E. H. Toland v. The Auditor General, the Commissioner of the State Land Office and Donald A. McDonald. Alcona Circuit Court, in chancery.

Charles B. Williams v. The Auditor General, the Commissioner of the State Land Office, F. J. Newberry, William Sanborn, et al. Alcona Circuit Court, in chancery.

The Estate of Charles H. Killmaster v. The Auditor General, the Commissioner of the State Land Office, et al. Alcona Circuit Court, in chancery.

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In the matter of petition of the Auditor General for the sale of certain lands for the taxes of 1892 and 1893. In re petition of Robert W. Dunn v. The Auditor General. Alcona Circuit Court, in chancery.

Frank Haynes, Administrator of the Estate of Lucius Wheeler, Deceased v. The Auditor General, the Commissioner of the State Land Office and Edward H. Gillman, Trustee. Montmorency Circuit Court, in chancery.

Claude M. Harmon v. The Auditor General, the Commissioner of the State Land Office, and Edward H. Gillman, Trustee. Montmorency Circuit Court, in chancery.

Estate of Albert Pack v. The Auditor General, the Commissioner of the State Land Office, Charles F. Morningstar, Charles W. Chadwick, and Joseph W. Holler, et al. Montmorency Circuit Court, in chancery.

George E. Avery v. The Auditor General, the Commissioner of the State Land Office, John Saddler and wife, David Farrier and wife, and William H. Farrier and wife. Montmorency Circuit Court, in chancery.

Robert Rea v. The Auditor General, the Commissioner of the State Land Office, Charles Ferguson and John Vankellan. Montmorency Circuit Court, in chancery.

George R. Nicholson and the Estate of Albert Pack v. The Auditor General, the Commissioner of the State Land Office, Sarah M. Starkes, Edward O. Banks, et al. Montmorency Circuit Court, in chancery.

Fred L. Richardson v. The Auditor General, the Commissioner of the State Land Office and Clarence A. Carter and wife. Montmorency Circuit Court, in chancery.

Estate of George N. Fletcher v. The Auditor General and the Commissioner of the State Land Office. Montmorency Circuit Court, in chancery.

Herschel H. Hatch v. The Auditor General, the Commissioner of the State Land Office, James W. Copp and John Keating. Montmorency Circuit Court, in chancery.

W. and A. McArthur Company, Limited v. The Auditor General and the Commissioner of the State Land Office. Montmorency Circuit Court, in chancery.

William A. Moore v. The Auditor General, the Commissioner of the State Land Office, and Edward H. Gillman, trustee. Montmorency Circuit Court, in chancery.

Benjamin C. Morse v. The Auditor General and the Commissioner of the State Land Office. Montmorency Circuit Court, in chancery.

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Benjamin C. Morse v. The Auditor General, the Commissioner of the State Land Office and Edward H. Gillman, trustee. Montmorency Circuit Court, in chancery.

Charles B. Williams v. The Auditor General, the Commissioner of the State Land Office, Delbert Wilkin and James Beggett. Montmorency Circuit Court, in chancery.

The Minor Lumber Company v. The Auditor General and the Commissioner of the State Land Office. Montmorency Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of The Minor Lumber Company v. The Auditor General. Montmorency Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of W. & A. McArthur Company, Limited v. The Auditor General. Montmorency Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1881 to 1884, inclusive, and 1887 to 1893, inclusive. In re petition of Benjamin C. Morse v. The Auditor General. Montmorency Circuit Court, in chancery.

Charles R. Miller v. The Auditor General, the Commissioner of the State Land Office, August Dueltgen and Paul Hoeft. Presque Isle Circuit Court, in chancery.

Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office and Frederick Hartvig. Presque Isle Circuit Court, in chancery.

Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office and Johann Grossman. Presque Isle Circuit Court, in chancery.

Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office and Albert J. Juhnke. Presque Isle Circuit Court, in chancery.

Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office and Robert Kostman. Presque Isle Circuit Court, in chancery.

Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office, Gustave Quade and wife, August Hohnest and wife, Christian Brewer and wife, and Edward Karschnick and wife. Presque Isle Circuit Court, in chancery.

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Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office and John Soellinger. Presque Isle Circuit Court, in chancery.

Susan Erskine and Alfa Coppernoll, heirs of Edward Erskine, deceased, and Edward Erskine, Rebecca Erskine, Byron R. Erskine, and Lizzie E. Platz, heirs of James Erskine, deceased v. The Auditor General, the Commissioner of the State Land Office and John Soellinger. Presque Isle Circuit Court, in chancery.

Edward E. Ayer v. The Auditor General, the Commissioner of the State Land Office, Joseph Deithim, Jr., and wife, and Joseph Macklem (on) and wife. Presque Isle Circuit Court, in chancery.

Dayton W. Closser v. The Auditor General, the Commissioner of the State Land Office and Charles A. Begle. Presque Isle Circuit Court, in chancery.

Dayton W. Closser v. The Auditor General, the Commissioner of the State Land Office, Charles A. Begle and Joseph C. Purdy. Presque Isle Circuit Court, in chancery.

Dayton W. Closser v. The Auditor General, the Commissioner of the State Land Office, Joseph E. Brown and wife, Joseph L. Fuller and wife, John L. Fuller and wife, Joseph W. Brewert and wife, and Elijah D. Van Dusen and wife. Presque Isle Circuit Court, in chancery.

Dayton W. Closser v. The Auditor General, the Commissioner of the State Land Office and The Grace Harbor Lumber Company. Presque Isle Circuit Court, in chancery.

Dayton W. Closser v. The Auditor General, the Commissioner of the State Land Office and Frank Repke. Presque Isle Circuit Court, in chancery.

T. K. Dissette v. The Auditor General, the Commissioner of the State Land Office and Thomas W. Barry. Presque Isle Circuit Court, in chancery.

James Kerr v. The Auditor General, the Commissioner of the State Land Office and Charles A. Begle. Presque Isle Circuit Court, in chancery.

W. & A. McArthur Lumber Company v. The Auditor General, the Commissioner of the State Land Office, Arvis D. Kinney and wife, Christian Mellinger and wife, William J. Domke and wife, Newton Chapman and wife, William I. Phillips and Thomas Truban. Presque Isle Circuit Court, in chancery.

Charles R. Williams v. The Auditor General, the Commissioner of the State Land Office and August Adrian and wife. Presque Isle Circuit Court, in chancery.

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Charles R. Miller v. The Auditor General, the Commissioner of the State Land Office, and Paul Bittner. Presque Isle Circuit Court, in chancery.

Charles R. Miller v. The Auditor General, the Commissioner of the State Land Office, (Charles) Fred Cowhan. Presque Isle Circuit Court, in chancery.

Charles R. Miller v. The Auditor General, the Commissioner of the State Land Office and Paul H. Hoeft. Presque Isle Circuit Court, in chancery.

Henry Platz v. The Auditor General, the Commissioner of the State Land Office, Robert Englehardt and Jessie Englehardt. Presque Isle Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes assessed thereon. In re petition of Henry Platz v. The Auditor General, the Commissioner of the State Land Office, Robert Englehardt and Jessie Englehardt. Presque Isle Circuit Court, in chancery.

William C. Busch v. The Auditor General. Gladwin Circuit Court, in chancery.

Walter S. Prickett v. The Auditor General, Edward S. Sparrow, Anna S. Lang, John Abner Sherman, John M. Longyear and The Gogebic and Ontonagon Land Company, Limited. Injunction bill. Ontonagon Circuit Court, in chancery.

Horace M. Oren, Attorney General, ex rel., Joseph L. Hudson, John B. Howarth, Richard T. Joy, James Inglis, William W. Hannan, William W. Robinson, Julius G. Standart, Fred W. Smith, John Davis, Michael J. Murphy, William H. Beamer, G. Jay Vinton, Lewis J. Valpey, Frank Kennedy and Jacob Harrer v. The City of Detroit, D. W. H. Moreland and The Barber Asphalt Paving Company. Wayne Circuit Court, in chancery.

In the matter of the petition of the Auditor General for the sale of certain lands for the taxes of 1897. In re petition of Morse Manufacturing Company, to set aside taxes of 1897. Alpena Circuit Court, in chancery.

Joseph Penegor and William Penegor v. Paul Dolan and the Auditor General. Ontonagon Circuit Court, in chancery.

Charles A. Blair, Attorney General, ex rel., Frank Mikan, John McLean, Frank Karrer, John M. Fitch, John C. Obert, Alfred Shannon, Frank W. Conn, William McBride, Aden McBride and Synds L. Conn v. Board of Supervisors of Shiawassee County, John M. Martin, as clerk of said board, and as county clerk, and George Stanlase, as chairman of the Board of Supervisors. Injunction. Shiawassee Circuit Court.

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Fred W. Tabor v. The Flint Land Company, Limited, and Perry F. Powers as Auditor General. Saginaw Circuit Court, in chancery.

In re petition of the Auditor General for the sale of certain lands for the taxes of 1899 and prior years. In re Fred W. Tabor v. The Flint Land Company, Limited, and Perry F. Powers as Auditor General. Saginaw Circuit Court, in chancery.

Sarah A. Tabor v. The Flint Land Company, Limited, and Perry F. Powers as Auditor General. Saginaw Circuit Court, in chancery.

In re petition of the Auditor General for the sale of certain lands for the taxes of 1899 and prior years. In re Sarah A. Tabor v. The Flint Land Company, Limited, and Perry F. Powers as Auditor General. Saginaw Circuit Court, in chancery.

Robert H. Rayburn, William H. Campbell and William Denton v. The Auditor General. Montmorency Circuit Court, in chancery.

Martin Manthey, President National Broom-makers' Union No. 2, et al. v. Alonzo Vincent, Warden of the State Prison at Jackson, Michigan, et al. Wayne Circuit Court, in chancery.

George L. Maltz, Commissioner of the Banking Department of the State of Michigan, Complainant v. City Savings Bank of Detroit, Frank C. Pingree, Frank C. Andrews, Homer McGraw, Ward L. Andrus, Fred L. Osborn, Joseph Schrage and Henry R. Andrews, Defendants. Bill for appointment of receiver. Wayne Circuit Court, in chancery. Pending.

Robert Hopkins, et al. (Complainants and Appellees), vs. Luke Crossley, Jeremiah S. Vernor, John Kendall, (Defendants and Appellants), Jno J. and Robert T. Speed, (Claimants and Appellees), Chas. A. Blair Attorney General, (Escheator and Appellee).

C. A. Campbell et al. v. Perry F. Powers, Auditor General, and School District No. 4, Township of Grayling. Crawford Circuit Court, in chancery. Bill to set aside certain school taxes. Pending.

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SCEDULE "E."

Contains a list of cases referred to the Prosecuting Attorneys of the various counties.

In re petition of Ezekiel Gerow, to set aside sales to the State of certain lands for the years 1882 to 1886, inclusive. Alpena Circuit Court, in chancery. Pending.

People v. Oscar V. Linden. Justice Court, Delta County. Violation of the insurance law.

Joseph King v. The Auditor General and the unknown heirs of William A. Fox, deceased. Washtenaw Circuit Court, in chancery.

Jacob Schwartz v. The Auditor General and the Drain Commissioners of Gladwin and Midland Counties. Gladwin Circuit Court, in chancery.

People v. C. L. Corrigan. Justice Court. Genesee County. Violation of insurance law. Discharged on examination, April 7, 1904.

People v. Eli R. Sutton. Justice Court. Ingham County. Perjury. Held to the Circuit Court for trial.

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SCHEDULE "F."

Contains a list of assumpsit cases, appeals under inheritance tax law. disbarment proceedings, ejectment, replevin, trespass, bankruptcy and other cases, of which the Attorney General had charge or appeared in during the fiscal year ending June 30, 1904.

UNITED STATES SUPREME COURT.

CASES DECIDED.

Wisconsin & Michigan Railway Company v. Perry F. Powers, Auditor General. Appeal from the United States Circuit Court, Eastern District of Michigan. Affirmed. Reported in 191 U. S. 379. (See 1902 report, p. 25.)

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

In re Homer McGraw, bankrupt.

In re Frank C. Pingree, bankrupt.

In re Frederick S. Osborne, bankrupt.

Daniel McCoy, State Treasurer, under an agreement dated July 12. 1901, made the City Savings Bank of Detroit, Michigan, a depository of the surplus belonging to the State. The bond given for the safekeeping of such surplus funds was signed by F. C. Pingree, Frank C. Andrews, Fred S. Osborne, Homer McGraw, Joseph Schrage, Ward L. Andrus and Henry R. Andrews. Upon the failure of the bank suit was instituted by the State Treasurer in the Wayne Circuit Court against the above named bondsmen and judgment was obtained in the amount of $80,015.64 and costs. This judgment was filed as a claim against the above named bankrupts.

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UNITED STATES CIRCUIT COURT, WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION.

CASES DECIDED.

Herman VanAllan, et al. v. Edward Wallerstein & Company, bankrupt. The claim of the State of Michigan against the receiver for $1,332.31 was filed, allowed and paid in full. In the order appointing the receiver the court provided "that such receiver continue the business of said bankrupt at Ionia and the places hereinafter designated where the property of said bankrupt is situated until further ordered." The contract, as originally made, was entered into on the seventeenth day of December, 1897, between the prison authorities at Ionia and Alfred Wallerstein. The prison authorities agreed to furnish not less than three hundred convicts a day. They also agreed to furnish shop room, power, heat and light. Alfred Wallerstein agreed to employ the three hundred men furnished in shirt-making and to pay the prison authorities $105 a day for the three hundred men furnished, whether he used them or not. The contract was to run for ten years. Later by an agreement entered into between Alfred Wallerstein and Edward Wallerstein & Company to which the prison authorities were not parties, the business was, after January 1, 1899, and up to the time of the appointing of the receiver, conducted by Alfred Wallerstein in the name of Edward Wallerstein & Company. The receiver was appointed on the first day of May, 1903, and immediately took possession of the property situated at the Reformatory at Ionia and thereafter proceeded to take charge of the said business under the order of the court. Afterwards on the sixteenth day of June, 1903, the prison authorities revoked the contract dated December 17, 1897, to take effect June 20, 1903. The question was whether the receiver was bound from and after the fifteenth day of June, 1903, to pay for all men assigned to work according to the conditions of the contract, or whether he should only pay for such labor as was actually performed, and whether at the contract price or according to the actual value of such labor.

CASES PENDING.

American Express Company v. Perry F. Powers, Auditor General and Daniel McCoy, State Treasurer.

UNITED STATES COURT OF CLAIMS.

CASES PENDING.

State of Michigan v. The United States.

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MICHIGAN SUPREME COURT.

EJECTMENT CASES DECIDED.

Frank Hoffman v. George Silverthorn and the Auditor General. Ejectment. Affirmed. Reported in 11 D. L. N. 181; 100 N. W. 183.

EJECTMENT CASES PENDING.

Henry Platz v. Arthur Englehardt and wife. Error to Presque Isle Circuit Court.

REPLEVIN.

George Hickey v. Homer Rutledge. Reversed. Reported in 10 D. L. N. 1000; 98 N. W. 974.

TRESPASS ON THE CASE.

John Neal v. Grant M. Morse and Theodore Trudell. Error to Bay Circuit Court. Affirmed. Reported in 10 D. L. N. 426; 134 Mich. 186.

DISBARMENT.

In re Eli R. Sutton. Order of disbarment entered January 5, 1904. No opinion. The petition was based on the fact that he on the 23d day of September, A. D. 1903, in Ingham Circuit Court, plead guilty to the charge of aiding, abetting and being accessory to certain fraud and embezzlement committed in the office of the Quartermaster General of the State of Michigan.

In re Edward O. Mains of Lowell, Michigan, for unprofessional conduct. Order of disbarment entered May 23, 1904.

DISBARMENT CASES PENDING.

In re Thomas F. McGarry.

ASSUMPSIT CASES PENDING.

John A. Wheeler and Joseph A. Pitkin, co-partners under the firm name of Wheeler and Pitkin v. The Board of Control of the State Public School. Error to Branch Circuit Court.

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MICHIGAN CIRCUIT COURT.

ASSUMPSIT CASES.

People v. George B. Holmes and John Nicholson, co-partners doing business under the firm name of Holmes and Nicholson. Trespass. Alpena Circuit Court. Discontinued by stipulation.

The People of the State of Michigan, represented by Charles A. Blair, Attorney General v. The Hastings Industrial Company of Chicago, a foreign corporation. Discontiued by stipulation on payment of $1,000 penalty and $5.55 costs.

The People of the State of Michigan v. The Walsh Manufacturing Company, a foreign corporation. Crawford Circuit Court. Discontinued by stipulation. Suit in assumpsit was instituted against the defendant to collect the penalty it made itself subject to for doing business in this state without first complying with the provisions of Act No. 206 of the Public Acts of 1901.

John A. Wheeler and Joseph A. Pitkin, co-partners, under the firm name of Wheeler & Pitkin, v. Board of Control of the State Public School. Assumpsit. Branch Circuit Court. Judgment rendered, March 25, 1905, over-ruling plaintiff's demurrer to defendant's special plea in abatement and sustaining the special plea. Removed to the Supreme Court by writ of error.

FRAUD.

People v. Eli R. Sutton. Ingham Circuit Court. Fraud and embezzlement. Convicted and sentenced to pay a fine of $2,000, and that he be imprisoned in the county jail of said county until the fine be paid, not exceeding two years from and including day of sentence. Fine paid and defendant discharged.

TRESPASS.

Edward Wallerstein & Company, a corporation v. Otis Fuller, Warden Michigan Reformatory, formerly State House of Correction and Reformatory, at Ionia, Michigan. Ionia Circuit Court. Discontinued March 18, 1904. Suit was brought for breach of contract entered into on the 17th day of December, A. D. 1897, by and between Alfred Wallerstein and Otis Fuller, Warden of the State House of Correction at Ionia, under the direction of the Board of Control, and with its consent, and forfeited for non-performance on the 16th day of June, A. D. 1903, by the Board of Control of said institution.

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CASES DISCONTINUED.

People v. William Kilbride. Trespass. Montmorency Circuit Court. Discontinuance filed December 4, 1903.

CASES PENDING.

People v. William Kilbride. Trespass. Alpena Circuit Court.

People v. William Kilbride. Trespass. Alpena Circuit Court.

Joseph S. McDowell, assignee of Edward Wallerstein and Company, a corporation v. Otis Fuller, Warden Michigan Reformatory, formerly State House of Correction and Reformatory, at Ionia, Michigan. Wayne Circuit Court.

The People of the State of Michigan v. The Alpena Mutual Benefit Telephone Company. Alpena Circuit Court.

The People of the State of Michigan v. The Fenton Mutual Telephone Exchange. Genesee Circuit Court.

People v. Henry Merdian. Action to recover penalty under Section 7048, C. L. 1897. Wayne Circuit Court.

People v. James G. Barton. Action to recover penalty under Section 7048, C. L. 1897. Wayne Circuit Court.

People v. Charles R. Wilson. Action to recover penalty under Section 7048, C. L. 1897. Wayne Circuit Court.

People v. Joseph S. Doyle. Action to recover penalty under Section 7048, C. L. 1897. Wayne Circuit Court.

People v. Hugh O'Connor. Action to recover penalty under Section 7048, C. L. 1897. Wayne Circuit Court.

People v. Charles C. Canney. Action to recover penalty under Section 7048, C. L. 1897. Wayne Circuit Court.

People v. Oliver N. Gardner. Action to recover penalty under Section 7048, C. L. 1897. Wayne Circuit Court.

REPLEVIN.

Malcolm McPhee v. Peter E. Shien, George Russell and the Commissioner of the State Land Office. Replevin. Alpena Circuit Court.

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ASSUMPSIT.

The People v. Mrs. Rosentha Giesy. Assumpsit. Ingham Circuit Court.

TRESPASS ON THE CASE.

Michigan Central Railroad Company v. The State of Michigan. Wayne Circuit Court.

INJUNCTION.

The Detroit Union Railroad Depot and Station Company v. Roscoe D. Dix, Auditor General. Injunction. Ingham Circuit Court.

Fort Street Union Depot Company v. Roscoe D. Dix, Auditor General. Injunction. Ingham Circuit Court.

INHERITANCE TAX.

In re inheritance tax on the transfers in the estate of Mary B. Stanton, deceased. Appeal from order fixing tax. Wayne Circuit Court.

In re inheritance tax on the transfers in the estate of Frederick P. Currier, deceased. Appeal from order fixing tax. Lapeer Circuit Court.

In re inheritance tax on the transfers in the estate of Henry W. Merriam, deceased. Appeal from order fixing tax. Wayne Circuit Court.

EJECTMENT.

Henry Platz v. William Spens, The Auditor General and the Commissioner of the State Land Office. Presque Isle Circuit Court.

Henry Platz v. The Auditor General, the Commissioner of the State Land Office and William Spens. Presque Isle Circuit Court.

Henry Platz v. The Auditor General, the Commissioner of the State Land Office, Arthur Englehardt and Jessie Englehardt. Ejectment. Presque Isle Circuit Court.

Henry Platz v. Arthur Englehardt and wife. Presque Isle Circuit Court.

John M. Longyear v. Ernest Bollman and Perry F. Powers, Auditor General. Ejectment. Keweenaw Circuit Court.

John M. Longyear v. Rufus R. Goodell, Ernest Bollman and Perry F. Powers, Auditor General. Ejectment. Keweenaw Circuit Court.

John M. Longyear v. Rufus R. Goodell, Ernest Bollman, William Nordstrom and Perry F. Powers, Auditor General. Ejectment. Keweenaw Circuit Court.

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John M. Longyear v. George Hall and Perry F. Powers, Auditor General. Ejectment. Keweenaw Circuit Court.

John M. Longyear v. William Nordstrom, Andrew Miller and Perry F. Powers, Auditor General. Ejectment. Keweenaw Circuit Court.

Henry Platz v. Sophia Nelson, The Auditor General and the Commissioner of the State Land Office. Ejectment. Presque Isle Circuit Court.

Charles B. Williams v. The Auditor General, the Commissioner of the State Land Office, Gilbert Olson and Mrs. Gilbert Olson. Ejectment. Alpena Circuit Court.

Henry Platz, Administrator of the Estate of Fred Lincoln v. The Auditor General, the Commissioner of the State Land Office, Albert C. Beutel and Mrs. Albert C. Beutel. Ejectment. Alpena Circuit Court.

Frank G. Cowley v. Thomas Galbraith, Mrs. Thomas Galbraith, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Frank G. Cowley v. John Newhouse, Mrs. John Newhouse, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Frederick Bariger and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. William E. Brooks and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. August Cherritree and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Andrew C. Corisen and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Archie G. Deacon and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. John L. Delop and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Herbert Defoe and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

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Robert W. Dunn v. Philip Defoe and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. John Dickinson and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Gustave Grimm and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Ezra Landon and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. John F. Lucas and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. John F. Mayer and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Henry Middleton and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona circuit Court.

Robert W. Dunn v. Jacob B. Mowen and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. William Newhouse and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. John Rickert and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Margaret Roberts, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. William Sloan and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. William Stocks and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

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Robert W. Dunn v. Albert R. Thornton and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Carlto E. Wakefield and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. David A. Wheeler and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Peter G. Wheeler and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Edward A. Wright and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Estate of George N. Fletcher v. B. R. Briggs and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Estate of George N. Fletcher v. William D. Brown and wife and the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Estate of George N. Fletcher v. William Depew and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Estate of George N. Fletcher v. Eri J. Hickey and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Estate of George N. Fletcher v. Glen C. Wiley and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Huron Land Company, Limited v. William D. Brown and wife, the Aditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

George B. Killmaster and the Estate of Charles H. Killmaster v. Joseph Thompson and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

George R. Nicholson and the Estate of Albert Pack v. Herbert G. Bricker and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

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George R. Nicholson and the Estate of Albert Pack v. Alexander Cornelius and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

George R. Nicholson and the Estate of Albert Pack v. Charles L. Stevens and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

George R. Nicholson and the Estate of Albert Pack v. Hiram Stevens and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

George R. Nicholson and the Estate of Albert Pack v. William Thompson and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Clarence C. Sanborn v. Christ Olson and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

E. H. Toland v. Donald A. McDonald and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Frank Banks and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Robert Cummings and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Robert W. Dunn v. Richard Wheeler and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

Huron Land Company, Limited v. Albert Farrar and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Alcona Circuit Court.

George E. Avery v. David W. Farrier and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Montmorency Circuit Court.

George E. Avery v. William Farrier and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Montmorency Circuit Court.

George E. Avery v. The Auditor General, the Commissioner of the State Land Office and John Sadler and wife. Ejectment. Montmorency Circuit Court.

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Herschel H. Hatch v. The Auditor General, the Commissioner of the State Land Office and James W. Copp and wife. Ejectment. Montmorency Circuit Court.

Herschel H. Hatch v. The Auditor General, the Commissioner of the State Land Office and John Keating. Ejectment. Montmorency Circuit Court.

Benjamin C. Morse v. Edward H. Gillman, trustee, the Turtle Lake Hunting and Fishing Club, the Auditor General and the Commissioner of the State Land Office. Ejectment. Montmorency Circuit Court.

George R. Nicholson v. The Auditor General, the Commissioner of the State Land Office and Edward O. Banks and wife. Ejectment. Montmorency Circuit Court.

..... v. Alex S. Pushman, the Auditor General and the Commissioner of the State Land Office. Ejectment. Montmorency Circuit Court.

Estate of Albert Pack v. The Auditor General, the Commissioner of the State Land Office and Charles E. Chadwick and wife. Ejectment. Montmorency Circuit Court.

Estate of Albert Pack v. The Auditor General, the Commissioner of the State Land Office and Charles W. Chadwick and wife. Ejectment. Montmorency Circuit Court.

Estate of Albert Pack v. The Auditor General, the Commissioner of the State Land Office and Charles F. Morningstar and wife. Ejectment. Montmorency Circuit Court.

Robert Rea v. Charles Ferguson and wife, the Auditor General and the Commissioner of the State Land Office. Ejectment. Montmorency Circuit Court.

Fred L. Richardson v. The Auditor General, the Commissioner of the State Land Office and Clarence A. Carter and wife. Ejectment. Montmorency Circuit Court.

Charles B. Williams v. The Auditor General, the Commissioner of the State Land Office and James Beggett and wife. Ejectment. Montmorency Circuit Court.

Charles B. Williams v. The Auditor General, the Commissioner of the State Land Office and Delbert S. Williams and wife. Ejectment. Montmorency Circuit Court.

Edward E. Ayer v. The Auditor General, the Commissioner of the State Land Office and Joseph Diethim, Jr., and wife. Ejectment. Presque Isle Circuit Court.

Edward E. Ayer v. The Auditor General, the Commissioner of the State Land Office and Joseph Macklon and wife. Ejectment. Presque Isle Circuit Court.

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Dayton W. Closser v. The Auditor General, the Commissioner of the State Land Office and Joseph W. Brewer and wife. Ejectment. Presque Isle Circuit Court.

Dayton W. Closser v. The Auditor General, the Commissioner of the State Land Office and Joseph E. Brown and wife. Ejectment. Presque Isle Circuit Court.

Dayton W. Closser v. The Auditor General, the Commissioner of the State Land Office and John L. Fuller and wife. Ejectment. Presque Isle Circuit Court.

Dayton W. Closser v. The Auditor General, the Commissioner of the State Land Office and Joseph L. Fuller and wife. Ejectment. Presque Isle Circuit Court.

Dayton W. Closser v. The Auditor General, the Commissioner of the State Land Office and Elijah D. Van Dusen and wife. Ejectment. Presque Isle Circuit Court.

Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office and Christian Brewer and wife. Ejectment. Presque Isle Circuit Court.

Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office and August Hohnest and wife. Ejectment. Presque Isle Circuit Court.

Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office and Edward Karschnick and wife. Ejectment. Presque Isle Circuit Court.

Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office and Gustave Quade and wife. Ejectment. Presque Isle Circuit Court.

Byron R. Erskine v. The Auditor General, the Commissioner of the State Land Office and John Soellinger and wife. Ejectment. Presque Isle Circuit Court.

Susan Erskine and Alfa Coppernoll, heirs at law of Edward Erskine, deceased, and Edward, Rebecca, Byron R. Erskine and Lizzie Platz, heirs at law of James Erskine, deceased v. The Auditor General, the Commissioner of the State Land Office and John Soellinger and wife. Ejectment. Presque Isle Circuit Court.

W. & A. McArthur Company, Limited v. The Auditor General, the Commissioner of the State Land Office and Newton Chapman and wife. Ejectment. Presque Isle Circuit Court.

W. & A. McArthur Company, Limited v. The Auditor General, the

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Commissioner of the State Land Office and William J. Domke and wife. Ejectment. Presque Isle Circuit Court.

W. & A. McArthur Company, Limited v. The Auditor General, the Commissioner of the State Land Office and Arvis D. Kinney and wife. Ejectment. Presque Isle Circuit Court.

W. & A. McArthur Company, Limited v. The Auditor General, the Commissioner of the State Land Office and Christian Melinger. Ejectment. Presque Isle Circuit Court.

Charles R. Miller v. The Auditor General, the Commissioner of the State Land Office and August Adrian and wife. Ejectment. Presque Isle Circuit Court.

Franc A. Turnbull v. Burt L. Turnbull and Jay D. Turnbull, heirs at law of James D. Turnbull, deceased v. The Auditor General, the Commissioner of the State Land Office and Michael Striker and wife. Ejectment. Presque Isle Circuit Court.

Franc A. Turnbull, Burt L. Turnbull and Jay D. Turnbull, heirs at law of James D. Turnbull, deceased v. The Auditor General, the Commissioner of the State Land Office and Charles Kirchhoof. Ejectment. Presque Isle Circuit Court.

Franc A. Turnbull, Burt L. Turnbull and Jay D. Turnbull, heirs at law of James D. Turnbull, deceased v. The Auditor General, the Commissioner of the State Land Office and Casper Moxsa. Ejectment. Presque Isle Circuit Court.

Franc A. Turnbull, Burt L. Turnbull and Jay D. Turnbull, heirs at law of James D. Turnbull, deceased v. The Auditor General, the Commissioner of the State Land Office and Casimir Staneska (Jadrigs Staneski). Ejectment. Presque Isle Circuit Court.

Franc A. Turnbull, Burt L. Turnbull and Jay D. Turnbull, heirs at law of James D. Turnbull, deceased v. The Auditor General, the Commissioner of the State Land Office and Collin S. Westrope. Ejectment. Presque Isle Circuit Court.

Franc A. Turnbull, Burt L. Turnbull and Jay D. Turnbull, heirs at law of James D. Turnbull, deceased v. The Auditor General, the Commissioner of the State Land Office and Sylvester M. Westrope. Ejectment. Presque Isle Circuit Court.

Robert W. Dunn v. Robert Middleton and wife, the Auditor General et al. Ejectment. Alcona Circuit Court.

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MICHIGAN PROBATE COURT.

CASES IN WHICH INHERITANCE TAX HAS BEEN DETERMINED AND PAID.

In re inheritance tax upon the transfers in the estate of Mary Webster, deceased. Genesee County Probate Court. November 4, 1903, tax $141.96, interest $40.77. (Total $182.73.) Paid.

In re inheritance tax on the transfers in the estate of Elizabeth E. Campbell, deceased. Livingston Probate Court. Tax determined July 27, 1903 in the sum of $350.00. Tax paid August 19, 1903, with interest in the sum of $60.03.

In re inhertance tax on the transfers in the estate of Thomas W. Snook, deceased. Macomb Probate Court. Tax determined June 9, 1904 in the sum of $33.26. Tax paid June 10, 1904, with interest in the sum of $8.67.

In re inheritance tax upon the transfers in the estate of Emiline Richardson, deceased. Genesee Probate Court. Tax $212.07 and interest $43.95. Paid April 19, 1904.

In re inheritance tax on the transfers in the estate of Julia M. Bucknell, deceased. St. Joseph Probate Court. Tax determined September 15, 1903, in the sum of $205.62. Tax paid September 21, 1903. Discount allowed $10.28.

In re inheritance tax on the transfers in the estate of Charles Starr, deceased. St. Joseph Probate Court. Tax determined October 1, 1903, in the sum of $49.41. Tax paid.

In re inheritance tax on the transfers in the estate of Olive M. Pellett, deceased. St. Joseph Probate Court. Tax determined May 23, 1904, in the sum of $133.40. Tax paid June 16, 1904. Discount allowed $6.67.

In re inheritance tax on the transfers in the estate of Claricy C. Tyler, deceased. Ottawa Probate Court. Tax paid January 9, 1904, in the sum of $147.25.

In re inheritance tax on the transfers in the estate of Frederick Saunders, deceased. St. Clair Probate Court. Tax determined. Tax paid ($779.13), with interest in the sum of $120.78. Discount allowed $9.47.

In re inheritance tax on the transfers in the estate of Cornelius J. Roche, deceased. Bay Probate Court. Tax determined February 18, 1903, in the sum of $62.06. Tax paid May 18, 1903, with interest in the sum of $13.64. (Order, etc., not received by Auditor General until Aug. 7, 1903.)

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CASES PENDING IN WHICH INHERITANCE TAX HAS BEEN DETERMINED BUT NOT PAID, OR PARTLY PAID.

In re inheritance tax on the transfers in the estate of Henry J. Parker, deceased. Oakland Probate Court. Order determining tax entered. Tax determined June 29, 1903, in the sum of $22.50.

In re inheritance tax on the transfers in the estate of Stephen Nott Frazier, deceased. Calhoun Probate Court. Order determining tax entered. Tax determined in the sum of $41.02. Tax partly paid ($10.26) September 21, 1903.

In re inheritance on the transfers in the estate of John Laughlin, deceased. Washtenaw County. Interest collected through the filing of a Lis Pendens, $4.05.

In re inheritance tax on the transfers in the estate of Benjamin L. Hicks, deceased. Lenawee Probate Court. Order determining tax entered. Tax determined in sum of $163.25.

In re inheritance tax on the transfers in the estate of Laura E. Burr, deceased. Ingham Probate Court. Order determining tax entered.

In re inheritance tax on the transfers in the estate of Isabella Buckell, deceased. Oakland Probate Court. Tax determined in the sum of $21.20. Tax partly paid February 13, 1904. Partial payment amounted to $16.66 and interest to $4.88.

In re inheritance tax on the transfers in the estate of Henri J. Kritzer, deceased. Calhoun Probate Court. Amount of tax: $112.12; partly paid ($84.12) June 23, 1904; interest: $31.11.

CASES DISCONTINUED.

In re inheritance tax on the transfers in the estate of John Lacy, deceased. Oakland Probate Court.

In re inheritance tax on the transfers in the estate of Gurdon K. Jackson, deceased. Bay Probate Court. Discontinued.

In re inheritance tax on the transfers in the estate of Anna Kamman, deceased. Bay Probate Court. Discontinued.

CASES PENDING.

In re inheritance tax on the transfers in the estate of Rebecca Bennett, deceased. Lenawee Probate Court.

In re inheritance tax on the transfers in the estate of O'Brien J. Atkinson, deceased. St. Clair Probate Court.

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In re inheritance tax on the transfers in the estate of Mary Callan, deceased. Kent Probate Court.

In re inheritance tax on the transfers in the estate of Mary E. Macomb, deceased. Wayne Probate Court.

In re inheritance tax on the transfers in the estate of Arthur W. McNames, deceased. Washtenaw Probate Court.

In re inheritance tax on the transfers in the estate of Charles E. Green, deceased. Washtenaw Probate Court.

In re inheritance tax on the transfers in the estate of Brooks B. Hazleton, deceased. Washtenaw Probate Court.

In re inheritance tax upon the transfers in the estate of Henry Bierkamp, deceased. Wayne Probate Court. Pending.

In re inheritance tax on the transfers in the estate of Morris W. Miner, deceased. Oakland Probate Court. Order determining tax entered.

In re inheritance tax on the transfers in the estate of John B. Sutton, deceased. Lapeer Probate Court.

In re inheritance tax on the transfers in the estate of Mary K. Allbright, deceased. Lenawee Probate Court.

In re inheritance tax on the transfers in the estate of Ann Cerrow, deceased. Lenawee Probate Court.

In re inheritance tax on the transfers in the estate of Clemons Hathaway, deceased. Lenawee Probate Court.

In re inheritance tax on the transfers in the estate of Lucy Hayden, deceased. Lenawee Probate Court.

In re inheritance tax on the transfers in the estate of Daniel C. Larned, deceased. Lenawee Probate Court.

In re inheritance tax on the transfers in the estate of Mary Mellon, deceased. Lenawee Probate Court.

In re inheritance tax on the transfers in the estate of Barthold Muhlhauser, deceased. Lenawee Probate Court.

In re inheritance tax on the transfers in the estate of Sarah A. Robinson, deceased. Lenawee Probate Court.

In re inheritance tax on the transfers in the estate of Henry Smith, deceased. Lenawee Probate Court.

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In re inheritance tax on the transfers in the estate of Louise Weingart, deceased. Lenawee Probate Court.

In re inheritance tax on the transfers in the estate of Joseph R. Hitchcock, deceased. Bay Probate Court.

In re inheritance tax on the transfers in the estate of Anna B. Weiss, deceased. Bay Probate Court.

In re inheritance tax on the transfers in the estate of Henry Bierkamp, deceased. Wayne Probate Court.

In re inheritance tax on the transfers in the estate of Lucas Wolfschlager, deceased. Washtenaw Probate Court.

In re inheritance tax on the transfers in the estate of Anastasia Cavanaugh, deceased. Wayne Probate Court.

In re inheritance tax on the transfers in the estate of Algunda Look, deceased. Wayne Probate Court.

In re inheritance tax on the transfers in the estate of John Allen, deceased. Washtenaw Probate Court.

INSANE AND OTHER CASES.

In re estate of Peter Sorenson, deceased. Grand Traverse Probate Court. Claim of the State of Michigan for the support and maintenance of the said Sorrenson as a State patient allowed December 18, 1903, in the sum of $1,323.68. Paid December 29, 1903.

In re estate of William Judson, deceased. Washtenaw Probate Court. William Judson, at the time of his death, had, as State Oil Inspector, collected certain fees for the inspection of certain oils. The amount of the fees so collected that belonged to the State but which had not been paid over amounted to $4,695.14. It was contended that the sum so collected did not become a part of his estate at his death but that it was held by the administrator as it was held by William Judson in his lifetime in trust for the State. In the petition filed it was prayed that the administrator be required to pay into the treasury of the State of Michigan the sum so held by him. An order in accordance with the prayer of the petition was granted October 3, 1903.

In the matter of the application of the county drain commissioner of Kalamazoo County for the appointment of special commissioners to determine the necessity of the "Cowie drain," etc. Kalamazoo Probate Court. The land sought to be condemned in this proceeding was land used by the Michigan Asylum for the Insane at Kalamazoo, Michigan, for farm purposes. It was held not to be within the power of the drain commissioner to enter upon and condemn public property of the State devoted to a particular use for the right of way for a drain.

MISCELLANEOUS CLAIMS PENDING.

In re claim of the State of Michigan against the Firemen's Insurance Company of Baltimore, Maryland.

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SCHEDULE "G."

Contains a list of cases in which costs of suit were taxed by and paid to the State, during the fiscal year ending June 30, 1904.

1903.			
July	14.	Wolverine Land Co. v. Auditor General.....	$23 15
Aug.	6.	Reetz v. People of State of Michigan (No. 143, October term, 1902, U. S. Supreme Court.).....	20 00
Aug.	18.	State v. The Hastings Industrial Co., of Chicago...	5 55
1904.			
March	4.	Auditor General v. Newman. (County of Oceana.).	51 45
April	8.	G. R. & I. Ry. Co. v. C. S. Osborn, Comm'r of R. R..	20 00
April	8.	Wisconsin & Michigan Ry. Co. v. Auditor General..	20 00
April	23.	People v. Walsh Mfg. Co.....	8 37
		Total	$148 52

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SCHEDULE "H."

Statement of money collected and turned over to State Treasurer during the fiscal year ending June 30, 1904, (1) from estates which have escheated to the State, and (2) "on account," claim of the State against the City Savings Bank, of Detroit, for money on deposit at the time of the failure of said bank.

(1) June 24, 1904. Received of C. Beyschleg, Treasurer, St. Clair County, being amount found upon the bodies of Jane Connors and Gustave Hannal..... $50 66

(2) As the result of proceedings instituted (case of Daniel McCoy, as Treasurer, etc., v. Frank C. Pingree et al., p. 37, report 1903), a verdict was entered in the Wayne Circuit Court in the sum of $79,907.92 (covering the amount of the State's deposit of $75,000.00 and interest, $4,907.92, to date of verdict). The judgment, subsequently entered, allowed additional interest, amounting to $312.72, "from the rendition of said verdict."

1904.	Received from estate of Frank C. Pingree (bankrupt, see p. this report).....	$ 4,187 00
1904.	Received from Union Trust Co., Receiver, City Savings Bank	9,375 00
	Total amount received in 1904, "on account".....	$13,612 66

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SCHEDULE "I."

Statement of money collected and turned over to the State Treasurer, through the efforts of the Attorney General, with the co-operation of the medical superintendents of the various asylums and the judges of probate of the various counties, during the fiscal year ending June 30, 1904, as a reimbursement to the State for the support of certain insane persons at State asylums.

SUPPORT OF INSANE.

Eastern Asylum:		
Almon, Mary, Wayne Co.	$171 09	
Ashe, Alice, Tuscola Co.	15 00	
Bopp, Ann, Wayne Co.	292 68	
Falkerts, Jane, St. Clair Co.	132 00	
Frey, John A., Washtenaw Co.	49 11	
Fullerton, John, Washtenaw Co.	100 00	
Hunsperger, Elizabeth, Tuscola Co.	50 00	
Martin, Gideon, Livingston Co.	132 00	
Maynard, Abbie L., Washtenaw Co.	1,013 12	
McQuade, Mary J., Macomb Co.	132 00	
Noble, Grace, Oakland Co.	174 44	
Sheep, Letitia, Livingston Co.	86 20	
Smith, Eliza, Washtenaw Co.	414 03	
		$2,761 67
Michigan Asylum:		
Anthony, Peter B., Ingham Co.	$72 00	
Averill, Maria, Eaton Co.	126 91	
Bark, Lewis M., Kent Co.	92 21	
Bass, James H., Kent Co.	72 00	
Bates, Harriet M., Kent Co.	60 00	
Briggs, Thursey J., Kalamazoo Co.	36 00	
Burleson, Mary E., Branch Co.	970 45	
Donahue, John, Berrien Co.	108 00	
Failing, Lavina, Calhoun Co.	120 00	
Falley, Delia S., Hillsdale Co.	125 04	
Fox, Rosa B., Calhoun Co.	127 67	
Gorton, Lucy L., Barry Co.	30 00	
Hardesty, Alex., Kent Co.	54 00	
Hull, Belle, Allegan Co.	377 64	
Koesch, Anton, Kent Co.	356 20	
Leland, Margaret, Branch Co.	86 33	
Lord, Herbert J., Eaton Co.	128 18	
Maher, Philip, Hillsdale Co.	111 03	
Norton, Ida M.	8 06	

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Porter, Eliza, Allegan Co	$ 54 00	
Schweigert, David, Saginaw Co	132 00	
Stanley, Mary A., Kalamazoo Co	136 86	
Upwright, John, Eaton Co	69 02	
Van Meter, Ann, St. Joseph Co	118 00	
		$3,571 60
Northern Asylum:		
Garvin, Mary, Isabella Co	$75 00	
Miller, Henry, Charlevoix Co	99 00	
Snyder, Addie E., Ionia Co	73 15	
Sorenson, Peter, Muskegon Co	1,323 68	
White, Mary, Antrim Co	23 77	
		1,594 60
Wayne County Asylum:		
Newman, Charles	$324 00	
Taylor, William	29 47	
		353 47
Total		$8,281 34

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SCHEDULE "J."

Contains a list of insurance companies whose articles of incorporation, amendments and extensions thereto, have been approved by the Attorney General during the fiscal year ending June 30, 1904.

Finnish Mutual Fire Insurance Company of Houghton and Keweenaw Counties. Amended articles of incorporation approved August 17, 1903.

Ann Arbor Railroad Employes' Relief Association. Amended articles of incorporation approved July 18, 1903.

Patrons' Mutual Fire Insurance Company of Wayne and Washtenaw Counties, Limited. Articles of incorporation approved November 30, 1903.

German Farmers' Mutual Fire Insurance Company of Macomb and Wayne Counties. Corporation extension proceedings examined and approved January 7, 1904.

Citizens' Mutual Fire Insurance Company of Kent, Allegan and Ottawa Counties. Corporation extension proceedings examined and approved January 12, 1904.

Farmers' Mutual Fire Insurance Company of Presque Isle, Montmorency and Oscoda Counties. Amended articles of incorporation approved June 30, 1904.

North American Accident Association, (Saginaw, Michigan). Amendments to articles of incorporation approved February 5, 1904.

Farmers' Mutual Fire Insurance Company of Branch County. Amended articles of incorporation approved February 17, 1904.

Citizens' Mutual Fire Insurance Company of Michigan. Corporation extension proceedings examined and approved March 1, 1904.

Italian Mutual Fire Insurance Company. Amended articles of incorporation approved March 14, 1904.

German Farmers' Mutual Fire Insurance Company of Macomb and Wayne Counties. Amendments to articles of incorporation approved March 12, 1904.

Finnish Mutual Life Insurance Association. Articles of incorporation approved March 17, 1904.

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Workingmen's Mutual Protective Association of Benton Harbor, Michigan. Articles of Association approved June 22, 1903. The fee in this matter is included among those for the fiscal year, 1904, in the 1904 report of the State Treasurer and the matter is therefore mentioned herein.

Italian Mutual Fire Insurance Company, of Houghton, Iron and Dickinson Counties. Amendment to charter, approved July 15, 1903.

Patrons' Mutual Tornado, Cyclone and Windstorm Insurance Company of Michigan. Articles of incorporation approved April 14, 1904.

United States Health and Accident Insurance Company. Amendment to articles of incorporation approved May 7, 1904.

American Relief Society. Amendment to articles of incorporation approved June 14, 1904.

Farmers' Mutual Fire Insurance Company of Red Jacket. Articles of incorporation approved June 21, 1904.

Insurance approval fees, $75.00.

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SCHEDULE "K."

Statement of moneys received by the State in the collection of which the Attorney General participated, including the sum received as fees for approving articles of association, etc., of insurance companies, for the fiscal year ending June 30, 1904.

Received from escheated estates (Schedule H.)	$50 66
Received on account of claim of the State of Michigan against City Savings Bank	13,562 00
Costs taxed and paid in State cases (Schedule G.)	148 52
Penalty collected in the case of the State v. The Hastings Industrial Company	1,000 00
Received from estates of insane persons (Schedule I.)	8,281 34
Received as insurance approval fees (Schedule J.)	75 00
Received from the estate of William Judson, deceased	4,695 41
Inheritance tax collections, including int. (Schedule G.)	2,536 13
Total	$29,938 63

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SCHEDULE "L."

TRUST, DEPOSIT AND SECURITY COMPANIES, organzed under Chapter 162 of the Compiled Laws of 1897, are not restricted in their operation to the town or city named in their articles of incorporation as the location of the principal office of the corporation. They may guarantee or insure to grantees the validity of titles, in real estate transfers, anywhere within the limits of the State, and may transact such business through duly authorized agents anywhere therein.

July 1, 1903.

Hon. George W. Moore, Commissioner of the Banking Department,
Capitol, Lansing, Michigan.

Dear Sir—I am in receipt of your communication of the 15th ultimo submitting for an opinion the following questions:

1. "Can a company organized under Chapter 162 of the Compiled Laws of 1897, entitled 'Trust, Deposit and Security Companies,' guarantee titles anywhere within the State of Michigan, or must this branch of its business be confined to the city named in its articles of incorporation?

2. "Can a company organized under the act mentioned above, open a branch office or offices in other cities of the State, providing all business is done through the home office and all accounts kept there, the branch office merely being an agency for the convenience of customers?"

In answer to your first question I would say that it is a general rule that if there is no express provision in the charter of a corporation limiting it in its ordinary business transactions to a particular place or territory, no such limitation is to be implied. The rule is, that a corporation is impliedly authorized by its charter to carry on its business both at home and abroad, through the usual agencies, in the same manner as a co-partnership engaged in a similar enterprise. (Morawetz on Private Corporations, § 359; 7 Amer. & Eng. Ency. of Law, 2 ed., p. 702.) Among the powers of corporations organized under Chapter 162 of the Compiled Laws, set forth in Section 9, is the power "to guarantee or insure to grantees the validity of titles in real estate transfers." No provision requiring them to confine their operations to the limits of the particular city, village or town named in the articles of association as the location of the principal office of the corporation, appears in the law. These corporations are expressly authorized to accept and execute the office of executor, administrator, trustee, receiver or assignee, by appointment of any court of the State; and they are empowered to act generally as agent or attorney for the transaction of business, the management of estates, the collection of rents, dividends, mortgages, etc., which would necessarily involve the exercise of corporate authority for

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that purpose anywhere within the State. In the absence of express restriction, it is my opinion that these corporations may exercise their powers, including the power to guarantee the validity of titles in real estate transfers, anywhere within the limits of the State.

With reference to the second question submitted, I would say that inasmuch as these corporations are authorized to transact their business anywhere within the State, and as every corporation has the implied power to appoint appropriate agents through whom to conduct its business, it is my opinion that the appointment of such agents by corporations organized under Chapter 162 of the Compiled Laws of 1897, in localities other than that in which the principal office of the corporation is situated, would be a lawful exercise of corporate authority.

Yours very truly,
CHAS. A. BLAIR,
Attorney General.

APPROPRIATION.—The total amount appropriated by Act No. 175 of the Public Acts of 1903, which provides for the creation of a forestry reserve and the making of an appropriation therefor, was $8,500 and not $7,500. The sum of $1,000 to be paid by the State Treasurer from the general fund to the Warden is a specific appropriation, separate from and in addition to the $7,500 provided for by Section 5. The latter is to be paid to the Secretary of the Forestry Commission, who shall account for the same in the same manner as the treasurers of the various State institutions.

July 8, 1903.

Mr. Henry Humphrey, General Accountant, Auditor General's Office, Capitol, Lansing.

Dear Sir—I have at hand your letter of the 25th ult. relative to Act No. 175, Public Acts of 1903. You desire to be advised:

First, as to whether or not the State can be obligated under this act for the payment of more than $7,500 per annum, and

Second, as to whether it is the duty of the Auditor General to disburse the money appropriated by this act upon requisition to the Secretary of the Forestry Commission, and to require him to account for it together with all other funds received by him under the accounting laws of the State and according to the methods imposed upon treasurers of the several State institutions.

Your first question arises apparently from the confusion attendant upon an attempt to reconcile the phrase used in Section 2 of this act that "The said Forestry Warden shall receive an annual salary of not to exceed $1,000 payable in the same manner as the salaries of State officers are now paid" with the provision of Section 5 that "For the purpose of carrying out the provisions of this act the Auditor General shall add to and incorporate in the State tax for the year 1903, and each year thereafter, the sum of $7,500."

For reply to this inquiry would say that it is an elementary rule of construction that statutes should be read so as to carry into effect the

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evident intentions of the Legislature, and to give full force and effect to every provision of the statute.

Fuller v. L. S. & M. S. R. R. Co. 108 Mich. 690; Lane v. Ruhl, 103 Mich. 38; Armstrong v. Western Mfr's Mut. Ins. Co., 95 Mich. 137; Detroit Commissioners of Parks v. M. C. R. R. Co., 90 Mich. 385; Mason v. Perkins, 73 Mich. 303; Potter v. Safford, 50 Mich. 46; Endlich on Interpretation of Statutes, Sec. 1; Sutherland on Statutory Construction, Sec. 234.

It is an equally elementary proposition that such intent is to be gleaned primarily from the statute itself.

Fuller v. L. S. & M. S. R. R. Co., 108 Mich. 690; Leoni v. Taylor, 20 Mich. 148; Green v. Graves, 1 Doug. 351; Brooks v. Hill, 1 Mich. 318.

Both of these propositions are summed up and given expression to in the case of McCluskey v. Cromwell, 11 N. Y. 601, wherein the Court says "It is beyond question the duty of the courts in construing statutes to give effect to the intent of the law-making power, and seek for that intent in every legitimate way. But * * * first of all in the words and language employed; and if the words are free from ambiguity and doubt, and express plainly, clearly and distinctly the sense of the framers of the instrument, there is no occasion to resort to other means of interpretation. It is not allowable to interpret what has no need of interpretation."

Applying these rules to the interpretation of the conflicting provisions in question, it is difficult to escape the conclusion that it is the intent of the Forestry Reserve Act to obligate the State to an annual payment of $8,500.

The provision in Section 2 that "The said Forestry Warden shall receive an annual salary of not to exceed $1,000, payable in the same manner as the salaries of State officers are now paid," undoubtedly contemplates the payment of $1,000 over and above the $7,500 provided for in Section 5. The phrase "in the same manner as other State officers are now paid," must be construed to mean, if it means anything at all, a payment "out of any moneys in the treasury to the credit of the general fund not otherwise appropriated," as in the case of the salaries of other State officers. (Section 165, Compiled Laws of 1897.)

Such a payment is obviously a distinct and different distribution from that contemplated by Section 5 with reference to the $7,500 mentioned therein. This latter, in the language of the statute, is to be "paid to the said commission upon the warrant of the Auditor General in the same manner in which such appropriations are usually paid, and shall be governed in all respects by the accounting laws of the State."

The distinctive difference in the two methods is at once apparent. The statute is to be construed so as to give if possible full effect to all of its provisions; Malonny v. Maher, 1 Mich. 26; Swartout v. Mich. Air Line, 24 Mich. 389; and no construction which renders any part of it nugatory should be adopted if a reasonable construction can be put upon it which will give effect to the whole; Smith v. Jones, 15 Mich. 281; Hitchcock v. Hogan, 99 Mich. 124.

Any other construction than the one I have indicated would have the undoubted effect of rendering either of the phrases referred to nugatory or meaningless.

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I must therefore conclude that the warden's salary of $1,000 provided for in Section 2 is a sum separate and distinct from the $7,500 referred to in Section 5; that such sum of $1,000 is to be paid directly by the State Treasurer from the general fund, and that all the other expenses necessary to carry out the provisions of this act, including the salaries of deputy wardens mentioned in Section 2, are payable out of the $7,500 as indicated in Section 5.

For reply to your second question would say, the language of Section 5 that "Such sum ($7,500) shall be immediately available upon the passage of this act, and shall be paid to the said commission upon the warrant of the Auditor General, in the same manner in which such appropriations are usually paid, and shall be governed in all respects by the accounting laws of the State," would seem to indicate, as you suggest, that such sum should be made payable to the Secretary of the Forestry Commission, and that he should be compelled according to the usual custom in the case of such appropriations to render his accounts under the State accounting laws in the same manner as the treasurers of the various State institutions.

Respectfully yours,
CHAS. A. BLAIR,
Attorney General.

INHERITANCE TAX LAW.—A transfer of property between two persons between whom existed relationship equivalent to that of parent and child, which was mutually acknowledged and which had existed for the required length of time, would be exempt from the provisions of.

July 15, 1903.

Hon. G. H. Francis, Judge of Probate, Bay City, Michigan.

Dear Sir—I have before me your communication of the 8th inst., relative to the taxation of the transfers of the property in the estate of Delia Carter, deceased, in which you ask if, in my opinion, under such facts as you have submitted, the transfer of certain property to one Joseph C. Crampton, should be exempt from an inheritance tax on the ground that the mutually acknowledged relationship of parent and child existed between him and the said Delia Carter, deceased, for the required length of time.

Replying thereto would say that upon an examination of the statements contained in your letter, I think all of such facts might exist, without the presence of the mutually acknowledged relationship of parent and child, as contemplated in the statute. Properly construed, I believe the statute means those instances in which there has been to all intents and purposes a legal adoption, lacking only in such legal formalities as are generally required in such proceedings.

The relationship depends upon, and should be determined from, the circumstances of each particular case. Mutual needs or wishes, resulting in friendship and living together in one household, frequently as members of the same family, would not, of itself, constitute such a relation-

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ship as would exempt the persons from the provisions of the statute. A relationship brought about through necessity or friendship, may grow into a relationship equivalent to that existing between parent and child; but if there is a single element of the paternal relationship lacking, the persons making claim thereto should not be exempted. This relationship must not only exist, but there must be a reciprocal acknowledgement thereof, and the immediate parties must hold themselves out before the world generally as having assumed the relationship of parent and child.

If, in the consideration of such facts as are before you, you are convinced that a relationship equivalent to that of parent and child existed between the parties for the required length of time, and that there was a reciprocal and mutual acknowledgement thereof, I believe you would be warranted in holding the transfer of the property received by the beneficiary in question, exempt from the provisions of the inheritance tax act.

Respectfully yours,
CHAS. A. BLAIR,
Attorney General.

CONSTITUTIONAL LAW.—The Legislature was acting with lawful authority in providing, by Joint House Resolution No. 309 for the liquidation, through the State Board of Auditors, of the claim of Genesee County against the State for the care and maintenance of certain State insane patients, temporarily removed from the Eastern Michigan Asylum to make room for others violently insane. This is not an appropriation for local or private purposes, and does not require a two-thirds vote upon its passage.

July 27, 1903.

Board of State Auditors, Capitol, Lansing.

Gentlemen—I have your communication of recent date, requesting my opinion as to the authority conferred upon you by House Joint Resolution No. 309, entitled "A joint resolution to direct and authorize the Board of State Auditors to investigate, examine and settle the claim of Genesee County against the State of Michigan, for the board, lodging and care of certain State insane patients who were transferred temporarily from the Eastern Michigan Insane Asylum at Pontiac, in order to accommodate more violently insane patients in said asylum, and to provide for the payment to said Genesee County therefor."

As indicated by the title, the purpose of this resolution is to reimburse Genesee County for expenditures made in the care of certain State insane patients, temporarily transferred from the Eastern Michigan Insane Asylum. The facts on which this resolution is predicated, as indicated by its preamble and derived from information furnished by the Medical Superintendent of the Asylum, are that in 1900, while the asylum was unable, by reason of lack of room, to receive all patients from the eastern district for whose admission application was made, the County of Genesee had a number of acute cases which it was unable to care for at its county-house. In order to make room for these urgent

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cases, certain patients, originally committed from Genesee County but at that time State charges, were removed from the asylum and placed in charge of the superintendents of the poor of Genesee County and were there cared for and supported at the expense of the county until additional accommodations were provided at the asylum in 1901. The further facts regarding such patients, as stated by Dr. Christian in his letter of July 6, are as follows:

"Each time that any of the above patients were removed, some new patient was brought from Genesee County and maintained here at the asylum at the expense of Genesee County. The amounts paid by Genesee County to the State for the support of these patients exactly balances the amount charged by Genesee County for the maintenance of the above patients in the county-house; for while the asylum was maintaining the patients chargeable here to Genesee County, Genesee County was maintaining an equal number of patients who had become State charges in her county-house, and charging the same rate, viz. $3.08 per week.

"All of the four people mentioned above were, as already intimated, State charges, having been maintained in the asylum at the expense of Genesee County for the required time."

The direction of the resolution is clear, and I understand that the only question upon which you desire information is as to whether the claim in question is of such a character as can, by the Legislature, be referred to your board. This question is practically disposed of in an opinion rendered by me to Hon. John J. Carton, Speaker of the House of Representatives, on April 21, 1903, in reference to this resolution, where I held the purpose was not to appropriate money for local or private purposes and that it was not necessary, upon its passage, to have a two-thirds vote, and said: "The purpose of the joint resolution in question is evidently to reimburse the County of Genesee for the moneys expended by it, and the services rendered in the care of State charges, and the State has received a direct benefit from such payments and services."

The statute makes provision for a removal or adjustment of patients so as to make room for urgent cases, as was done in this instance, (C. L. 1897, 1931). The patients sent from Genesee County to the asylum were there supported by Genesee County and at the same time an equal number of State patients were sent to Genesee County and were likewise supported by the county.

The patients which were supported by the county in its county-house were State patients whom the State was, by moral obligation and statutory provision, required to support and maintain, and their maintenance by Genesee County, with the consent and by the direction of the asylum authorities representing the State, was the performance of a duty of the State resulting in benefit to it, and while it is possible that its performance might not be sufficient to create a claim against the State which should, without legislative action, be allowed by the Board of State Auditors, still it is of such a character that the legislature had authority to provide for its liquidation through the Board of State Auditors.

It, therefore, follows that you are authorized and directed to investigate and examine said claim and if, upon such examination, the facts are found to be substantially as stated in the resolution, you are author-

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ized to adjust said claim and to allow such sum of money thereon as may be just and equitable.

Respectfully,
CHAS. A. BLAIR,
Attorney General.

ACCOUNTING LAWS.—The method of adjusting and balancing the accounts of the State Treasurer under Joint Resolution No. 8 of 1903, with reference to the item of $75,000 on deposit with the City Savings Bank of Detroit at the time of the failure, pointed out.

August 6, 1903.

Honorable Daniel McCoy, State Treasurer, Capitol, Lansing.

Dear Sir—You request instruction as to the method of carrying out the provisions of Joint Resolution No. 8 of 1903, providing for an adjustment of the accounts of the State Treasurer.

The directing provision of this resolution is as follows:

"Be it resolved by the Senate and House of Representatives of the State of Michigan, that the Auditor General and the State Treasurer be, and they are hereby authorized and directed to *open and close such accounts,* draw such warrants and make such entries in the books and records of their several departments as may be necessary and adequate to adjust and balance the accounts of the said State Treasurer, so far as the said item of $75,000 is concerned, that the Attorney General be directed to use every means to enforce the claim of the State on account thereof against the said City Savings Bank and the said guarantors, and that *when all collections on account of said deposit have been made and all remedies of the State exhausted, the proceeds thereof shall be covered into such fund as the State Treasurer, as has suffered by reason of the facts contained in the premises hereto.*"

It will be noted that the resolution, directs the opening and closing of such accounts as may be necessary, and requires that when all collections have been made and the remedies of the State have been exhausted, the proceeds shall be covered into the fund which has suffered by reason of the facts stated in the resolution. This is, in effect, a requirement that the fund which has suffered shall not be affected by proceedings taken under the resolution until the remedies of the State have been exhausted. I think, therefore, that the method of procedure should be as follows: A voucher should be prepared, referring to the resolution in question and outlining the procedure to be taken thereunder, and filed with the Auditor General. The Auditor General should then issue his warrant on the State Treasurer for $75,000, which should also refer to the resolution and the purpose for which drawn. This warrant should be cancelled by the State Treasurer without the payment of funds and should be so endorsed. The Auditor General should open a suspense account upon his books, and charge the same with $75,000, giving the State Treasurer credit for that amount. The State Treasurer

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should likewise, upon his books, open a suspense account, charge the same with $75,000 and credit his cash account with that amount.

From time to time, as collections are made, they will go to the credit of the suspense account, and when all collections have been made and the remedies of the State have been exhausted, the balance then in the suspense account should be covered into the general fund of the State treasury, the fund which has suffered by reason of the facts set forth in said resolution.

Respectfully,
CHAS. A. BLAIR,
Attorney General.

INSANE LAW.—All patients of the Wayne County Insane Asylum properly maintained therein at the time Act No. 217 of the Public Acts of 1903 took effect, and who had not prior thereto become State patients, became such when this act went into effect.

August 7, 1903.

Hon. Perry F. Powers, Auditor General, Capitol, Lansing.

Dear Sir—I have before me your communication of the 20th ultimo., in which you ask my opinion as to the status of patients in the Wayne County Insane Asylum, under the provisions of Act No. 217 of the laws of 1903, committed prior to June 16, 1903, and who had not become theretofore State charges.

Replying thereto would say, the language of Section 28, to which you have referred, is as follows:

"Sec. 28. All persons who are being kept and maintained in said asylums at the expense of the State or any county, when this act takes effect, shall thereafter be kept and maintained in said asylums as public patients, at the expense of the State."

This section, standing alone, would seem to indicate that it applied only to persons kept in State asylums, as the words "said asylums" refer to such institutions as are mentioned in Section 2 of the act. Construing the language of this section, together with the language of the entire act, I do not think it would admit of such a construction as would relieve the State from maintaining patients in the Wayne County Insane Asylum, who had not become State charges and who were committed prior to the time the above named act took effect.

It was only under legislative authority that Wayne County was allowed to send its patients to the Wayne County Insane Asylum and have the same rights against the State when sent to that institution as though they were sent to a State asylum. We may presume that in passing the above act, the legislature had in mind any and all existing laws. Under the existing laws at the time of the passage of the act, Wayne County was maintaining patients which, after a period of one year, would become State charges. In passing this act, the legislature provided that all persons kept and maintained in certain asylums at the expense of the State or county at the time the act should take effect would thereby

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become State charges. It is true that the language of the act does not expressly include the Wayne County Insane Asylum within its provisions. Nevertheless, it is through legislative authority that such patients are allowed to be maintained in the asylum in question. It is evident that one of the primary purposes in making this provision was to provide a method whereby all counties in the State should be placed in a similar position as soon as the new law became operative or in effect. If Wayne County is not to have the benefit of this provision in regard to patients committed prior to the time the law took effect, it can not enjoy the same privileges as other counties.

There is no language in the act indicating an intent upon the part of the legislature to except Wayne County from the same favors accorded other counties. In the consideration of the express language used and in arriving at the intent of the legislature, unless clearly evident, an exception ought not to be implied or read into the statute.

To hold that the patients maintained in the Wayne County Insane Asylum at the time Act 217 of the laws of 1903 took effect did not become State charges would, I believe, be an unreasonable construction and one not warranted by the express language used and the evident intent of the legislature, and would be forcing an operating effect upon the act that was never intended.

I am of the opinion that all those persons, properly maintained at the Wayne County Insane Asylum by Wayne County at the time Act No. 217 of the laws of 1903 took effect, should thereafter be kept and maintained at the expense of the State.

Respectfully,
CHAS. A. BLAIR,
Attorney General.

GENERAL LIQUOR LAW.—Sections 5388 and 5400, Compiled Laws of 1897, referring to the making of complaints under, construed.

Jackson, Mich., August 19, 1903.

Rev. Wm. H. Phelps, 389 First St., Manistee, Mich.

Dear Sir—A letter of yours containing a "statement of a case entered against a Manistee police officer for failure to enter complaint against the saloon-keeper who kept open on Memorial Day," has been referred to me. It appears from this statement that you entered complaint against a police officer of Manistee for failure to do his duty under Section 5388 and 5400 of Miller's Compiled Laws for the State of Michigan.

Section 5388 reads as follows:

"It shall be the duty of every county treasurer, sheriff, deputy sheriff, police officer or other person having notice or knowledge of any violation of the provisions of this act to immediately notify the prosecuting attorney of the county thereof and it shall be the duty of such prosecuting attorney when complaint on oath is made, forthwith to prosecute every

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person violating any of the provisions of this act and for each and every violation thereof."

Section 5400 reads as follows:

"It shall be the duty of village and city marshals, and, in cities having no marshal, of the chief of police or some subordinate appointed by such chief, to visit at least once each week all places within their respective jurisdictions where any of said liquors are sold or kept, to learn if any of the provisions of this act have been or are being violated; and whenever any of the officers above mentioned shall learn of a violation of any of the provisions of this act, it shall be his duty to enter complaint before some justice of the peace of the proper township or city or police justice, as the case may be, and to do whatever shall be necessary to bring the offender to justice."

Section 5401 provides as follows:

"Whenever complaint shall be made to any justice of the peace or police justice of any violation of the provisions of this act, he shall not require security for costs to be given but shall take the complaint and examination of the witnesses as in other cases and if the offense appears to have been committed, he shall issue his warrant for the arrest of the offender and shall notify the prosecuting attorney, whose duty it shall be to appear and prosecute the same."

Section 5390 provides for the imposition of a penalty "in case any assessor, county treasurer, prosecuting attorney or other officer whose duty it is to see that the provisions of this act are faithfully enforced, shall wilfully neglect or refuse to perform his duties," etc., and authorizes the governor to appoint an officer to act in place of the prosecuting attorney when necessary.

With these provisions of the statute in mind, I return to your statement that "the attorney for the defense moved to quash the proceedings on the following ground: That 5400 does not make any provision for compelling officers in a city where there is a marshal to enter complaints; that the list of officers who shall enter such complaints does not contemplate a city like Manistee that has a marshal with subordinate officers. In our city the marshal only is amenable to this law. The prosecuting attorney sided with the attorney for the defense and remarked that it was perhaps unfortunate for the people that it was so, but the law clearly did not include a subordinate police officer in a city that had a marshal. The complainant was allowed to state the ground of his complaint, but one poor preacher against three lawyers failed to win out and the case was dismissed. The League is anxious to get light on certain points: First. What precedents are on record? Have any police officers been convicted under this law? Have any marshals or sheriffs? Second. Will this interpretation stand light? It looks to us like a mere juggling of the law. If it is true, then half of the police officers of the State are not amenable to the law and can enforce the law or not just as they please."

Your complaint against this police officer was, according to your statement, that he failed to perform his duties under Sections 5388 and 5400, and inasmuch as the sections prescribe a different measure of duty, it is necessary to consider the duty of the police officer under both sections.

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Under Section 5388, it was the duty of this police officer, if he had notice or knowledge of a violation of the law by keeping open on Memorial Day to immediately notify the prosecuting attorney thereof and if he failed to so notify the prosecuting attorney, he would be liable to punishment under Section 5390.

Under Section 5400 the duty is a different one and not imposed by the statute upon "every county treasurer, sheriff, deputy sheriff, police officer or other person" but expressly imposed only upon the "village and city marshals, and in cities having no marshal, the chief of police or some subordinate appointed by such chief."

Here a clear distinction is made as to the persons required to perform the different duties provided for in the two sections as well as between the duties required by the sections. Under Section 5400 the duty is to visit at least once in each week all places where liquors are sold or kept and in case of learning of a violation of the law, the entering of complaint before some proper magistrate. A plain distinction is also made in Section 5400 between cities having marshals and cities having no marshals. In the case of villages and cities having marshals, the duties required under 5400 are imposed upon the marshal and upon no other person, nor is any provision made for the marshal deputizing some subordinate to exercise his duties in this regard, while in cities having no marshal, the duties are devolved upon the chief of police or some subordinate appointed by such chief. Now in case of a complaint for a failure to perform the duties required under Section 5400 it seems clear that it must appear, first, that the person complained against is one of the persons upon whom a duty is imposed by Section 5400; second, that that person failed to perform his duty either in visiting the places within his jurisdiction or in failing to enter complaint after learning of a violation of the provisions of the act. It would seem from your statement that so far as the complaint against the police officer for not doing his duty under Section 5400 is concerned, he was not one of the persons required by the section to perform the duties alleged to have been violated, and, therefore, I am of the opinion that the prosecuting attorney correctly held that the police officer could not properly be convicted under that section. If it appears from the evidence that the police officer has failed to report to the prosecuting attorney as required by Section 5388, then he certainly was liable to punishment for such violation of his duty. As to this, the statement does not inform me.

I think it was the intention of the legislature under Section 5400 to make the marshal and the chief of police or the person whom he should appoint, responsible for the making of complaint for the enforcement of the liquor laws and that these officers are in duty bound to make complaint whenever they learn of violations of such laws whether they have such knowledge that they can make complaint upon their own knowledge or not. If they have not personal knowledge of the facts, it is their duty to make the complaint upon information and belief and then bring in the witnesses who have knowledge of the facts by subpoena to support the complaint and it then becomes the duty of the prosecuting attorney to appear and prosecute the case.

In my opinion, therefore, if the city marshal learned through one

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of his police officers of a violation of any of the provisions of the act, it at once became his duty to make complaint and upon his failure or refusal to do so, or in case of his advising the police officer not to do so, the complaint should be made against him instead of against the police officer and in my opinion, such complaint would be valid. I also think that while the statute does not in terms require the prosecuting attorney to interfere until a complaint has actually been made under oath, that the plain implication of Section 5388 is that upon notice being given to him of a violation of the provisions of this act, he shall take steps to procure the making of a proper complaint and the issuing of a proper warrant to bring about the arrest and trial of the offender. Trusting that this may prove to be a satisfactory answer to the queries which you have propounded, I am,

Yours very respectfully,
CHAS. A. BLAIR.

MILITARY LAW.—Battalion Adjutants should be appointed by the Regimental Commander from among the commissioned officers of their respective regiments. In case of dispute between the Regimental Commander and the Battalion Commander as to the selection of an incumbent for this office, the decision of the former is controlling.

Jackson, Mich., August 29, 1903.

Gen. George H. Brown, Adjutant General, Lansing, Mich.

Dear Sir—I am in receipt of a communication under date of August 17th, inst., as follows:

"Attorney General, State of Michigan.

"Sir—I have the honor to submit to you a recommedation for the appointment of Angus McDonald to be Battalion Adjutant, Third Regiment, M. N. G., and ask for your written opinion; what action, under the law, can be taken by the Commander-in-Chief or Adjutant General?

"Very respectfully,
"GEO. H. BROWN,
"Adjutant General."

In reply to your request, I have the honor to submit my opinion as follows:

Section 13 of Act 204 of the Public Acts of 1901, being the statute governing the National Guard of Michigan, provides in part as follows:

Sec. 13. "Companies may elect their own officers in the manner to be prescribed in general regulations adopted by the Military Board, with the approval of the Commander-in-Chief. Regimental Adjutants, Battalion Adjutants, Quartermasters and Commissaries shall be appointed, as far as practicable, from among the commissioned officers of the respective regiments; Sergeants Major, Quartermaster Sergeants and Commissary Sergeants from the best qualified men of companies by the Colonel of their respective regiments."

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I construe this portion of the section quoted to provide that the Colonels of their respective regiments shall appoint Battalion Adjutants, as far as practicable, from among the commissioned officers of their respective regiments. This being the legislative enactment upon the subject must govern the case, unless [by] some later provision it has been done away with or modified by the legislature. Certain of the rules and regulations adopted by the Military Board seem to be in conflict with this provision of the statute. It is, however, provided by Section 66 of the act heretofore quoted, that the Military Board may prepare and promulgate "all articles, rules and regulations for the government of the Michigan National Guard not inconsistent with the laws of the United States or of this State, and when approved by the Commander-in-Chief and filed in the office of the Secretary of State, such rules and regulations come in force."

It will be seen, therefore, that no authority is given to the State Military Board to adopt any rule or regulation which is inconsistent with Section 13. If, therefore, it was the intention, by Section 30 of Article 3 of the Rules and Regulations, to provide that Battalion Adjutants should be appointed and commissioned by the Commander-in-Chief, if my construction of Section 13 is correct, then the Military Board exceeded its authority in so providing by said Section 30. However, Section 101 provides, in express terms, that the Battalion Adjutant shall be appointed by the Regimental Commander from among the Lieutenants of the Battalion, when practicable, in exact agreement with my construction of Section 13, requiring, however the recommendation of the Battalion Commander. I think that, in case a difference should arise between the Battalion Commander and the Regimental Commander as to whom the appointment should go, and the Battalion Commander should insist upon recommending a person whom the Regimental Commander should not approve of, inasmuch as the statute gives the Regimental Commander the right to make the appointment, the privilege of the Battalion Commander to make the recommendation must yield to the statutory right of the Regimental Commander to make the appointment, and in the event of such appointment by the Regimental Commander, it would, in my opinion, be the duty of the Commander-in-Chief to issue a commission to the person so appointed by the Regimental Commander.

This subject is not free from difficulty, owing somewhat to inconsistent provisions contained in the Rules and Regulations upon the subject, but, viewing the whole subject in the light of the statutory provision in Section 13, I have come to the conclusions above set forth, all of which is respectfully submitted.

Yours very respectfully,

CHAS. A. BLAIR.

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CONSTITUTIONAL LAW—RAILROADS.—The proviso to Subdivision 7 of Section 9 of Article 2 of the General Railroad Laws, added in 1877, is constitutional and valid.

Jackson, Mich., August 29, 1903.

Hon. Theron W. Atwood, Commissioner of Railroads, Lansing, Mich.

Dear Sir—I have had under consideration your letter of August 12th, with enclosures, consisting of letters from Geo. W. Bridgeman, attorney-at-law of Benton Harbor, and Frederick W. Stevens, general counsel of the Pere Marquette Railroad Co., relative to constitutionality of the proviso to Subdivision 7 of Section 9 of Article 2 of the General Railroad Laws added to that section in 1877. In accordance with your request to know my views as to the law, as applied to the facts stated by Mr. Bridgeman and Mr. Stevens, I have the honor to submit my opinion as follows:

The objections to the validity of the proviso in question raised by Mr. Stevens are as follows:

1. The title of the act introducing into Subdivision 7 of Section 9 this proviso is "An act to amend the fifth and ninth clauses of Section 9 of Article 2 and Section 10 of Article 4 of Act No. 198 of the Session Laws of 1873," and does not purport in terms to cover an amendment to Clause 7 of Section 9, which is the clause to which this proviso was added. This brings the case within the provisions of Sections 20 and 25 of Article 4 of the Constitution of Michigan.

2. The act has never been observed by any railroad Company, so far as Mr. Stevens can learn, so far as concerns this proviso, but has been generally ignored and consequently the courts are not likely to sustain it, notwithstanding the defective title, by reason of continued acquiescence in its provisions.

3. That the act is void also because it is unreasonable.

4. The law is invalid for uncertainty so far as concerns the clause covering distances exceeding thirty miles.

1. Section 20 of Article 4 of the Constitution is as follows: No law shall embrace more than one object which shall be expressed in its title. No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the legislature shall otherwise direct from a two-thirds vote of the members elected to each House."

Section 25 reads: "No law shall be revised, altered or amended by reference to its title only; but the act revised and the section or sections of the act altered or amended shall be re-enacted and published at length."

In my opinion, the Supreme Court of the State has determined that the provisions of the Constitution quoted are not violated in the case of the enactment of the proviso in question, and I cite as sustaining this opinion People v. Judge, 39 Mich. 197; Union Depot Co. v. Commissioner of Railroads, 118 Mich. 345, 197; Common Council of Detroit v. Schmid, 128 Mich. 380.

2. This contention raises a question of fact, which it is not my province to decide, and upon which Mr. Bridgman and Mr. Stevens are diametri-

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cally opposed, but if my opinion is correct with reference to the first objection, as above stated, this second objection becomes immaterial.

3. This objection also, in my opinion, raises a question of fact. As to whether the law is unreasonable or not is a question which must be determined by evidence involving the consideration of a multitude of details and can not be determined by a lawyer or a court until all the facts are before the lawyer or the court.

Chicago & Grand Trunk R. R. Co. v. Wellman, 83 Mich. 592; 143 U. S. 339; State v. Farmers' Loan and Trust Co., 116 U. S. 307; Chicago, Milwaukee & St. Paul R. R. Co. v. Minn., 134 U. S. 418.

4. As this objection only goes to distances exceeding thirty miles, it does not affect the valdity of the law as a whole, and, in my judgment, the law is not so inconsistent and uncertain in this respect as to be absolutely void upon its face.

I think, therefore, that as to all the questions raised by Mr. Stevens, the law is valid upon its face, and therefore should be enforced.

Yours very respectfully,

CHAS. A. BLAIR.

STATE VETERINARY BOARD.—The determination of what constitutes a regular college and school of veterinary medicine and surgery, is a discretionary question, solely for the decision of the State Veterinary Board. If an institution is found to comply with the statutes, the board would not be at liberty to refuse registration to one of its graduates basing its action on the character or quality of the teaching prevailing therein. Physicians resident in bordering states, whose practice extends into Michigan and who possess qualifications requisite to entitle them to registration were they residents herein, are entitled to a certificate on application. Fees of rejected applicants should be returned.

Jackson, Mich., August 31, 1903.

Dr. H. F. Palmer, Secretary State Veterinary Board, Detroit, Mich.

Dear Sir—On the fifth of August, 1903, I received from you a letter requesting my opinion upon the following questions propounded by you:

First. Shall we, that is, the State Veterinary Board, or shall we not, register those graduates of the Grand Rapids Veterinary School who have made applications for registration?

Second. Shall we register those men who live in bordering states whose practice extends inside our State and who in all respects comply with our law, except not being residents of Michigan?

Third. Shall we or shall we not return the fee of those men who made application for registration but for some reason or other registration was denied them?

I have the honor to submit my opinion, as follows:

First. Act 191 of the Public Acts of 1899, entitled "An act to protect the professional title and degree of veterinary surgeons," etc., provides in Section 1 for the appointment of a board consisting of three

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members. Section 2 of the act provides, among other things, as follows: "And said board shall from time to time during the year provide and furnish to said secretary a list of all regular colleges and schools of veterinary medicine and surgery having a course of not less than two years, with sessions of at least six months in each year." There seems to be no other provision in the act with reference to the character or requirements of such colleges and schools of veterinary medicine. If, therefore, a person desiring to register as a veterinary surgeon furnishes satisfactory proofs to the board as required in Section 3, that he is the possessor of a diploma from a regular veterinary college or school, having a course of not less than two years with sessions of at least six months in each year, he would seem to be entitled to his certificate under the terms of the act. Inasmuch as the application must be made to the veterinary board for a certificate and inasmuch as that board is required to furnish to the secretary a list of such regular colleges and schools of veterinary medicine and surgery, it would seem to follow logically that the board is to determine what constitutes a regular college and school of veterinary medicine and surgery. I think, however, the determination of this question of fact must be along the lines of the statute, that is, the board is to determine:

First, Is the institution issuing the diploma a regular college or school of veterinary medicine and surgery?

Second. Has such institution a course of not less than two years?

Third. Are the sessions of the school continued at least six months in each year?

If these questions are answered in the affirmative, I do not think that the board, under the statute, would be at liberty to investigate or base its action upon the character or quality of the teaching prevailing in the institution, provided the character of the teaching is such as to make it a regular college or school of veterinary medicine and surgery. I think, therefore, that this first question comes rather within the province of the board to decide than in mine, and that it will not be necessary for me to examine the report made by the committee appointed by the Superintendent of Public Instruction, since I should not, after such examination, feel that it was proper for me to determine whether as a matter of fact the graduates of the institution were entitled to registration. I think that with the views which I have expressed above with referenceto this matter, your honorable body will be able to determine this question for itself. If it is satisfied under the circumstances that this college at Grand Rapids is not a bona fide regular college or school of veterinary medicine and surgery, then its graduates ought not to be registered by the board. If, on the other hand, and after such consideration, your board determines that it is such regular college or school, having a course of not less than two years with sessions of at least six months in each year, then the graduates should be registered.

Second. In my opinion those men who live in bordering states and who possess the requisite qualifications for registration in case they were residents of the State of Michigan, should be given a certificate of registration upon applying for the same to the board. I think the spirit of the decision of the Supreme Court in the case of Templar v. Michigan State Board of Examiners of Barbers, 9 Detroit Legal News, page 300, leads to this conclusion.

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Third. In my opinion, the board should return the fee paid by those men who make application for registration but are rejected.

All of which is respectfully submitted.

Yours very truly,
CHAS. A. BLAIR,
Attorney General.

EXPENSES, STATE OFFICERS.—Bona fide authorized acts which are considered as incidental to the performance of official duties, need not be performed by State boards, or the members thereof, within the limits or boundary lines of this State, to entitle such boards or members to reimbursements for expenses incurred. If appropriations were made therefor by general law, it would be a proper account to be paid upon the warrant of the Auditor General; if not, it would be a proper claim to be passed upon by the Board of State Auditors.

October 14, 1903.

Hon. Perry F. Powers, Auditor General, Capitol, Lansing.

My Dear Sir—I have your communication under date of October 6th, referring to a request by the Board of State Auditors for my opinion relative to a certain bill for expenses submitted by George A. Hart, a trustee of the Northern Michigan Asylum. You also state that the Board of State Auditors seem inclined to hold that it is not within the authority of such board to meet the expenses of a member of any board of any of our State institutions who shall travel or in any other way incur expenses, concerning the disposition of a State appropriation. And that, as a former Attorney General has held that it is not within the power of the Auditor General to audit a bill of expenses of a member of any board of State institutions, if any part of the said bill of expense shall have been incurred outside of the State. You ask my opinion as to whether or not such a limitation can be applied against the Auditor General, and at the same time hold that the Board of State Auditors are not justified in paying the expenses of a member of any such board of any institution having a definite appropriation at its disposal, and if the members of boards of important State institutions are thereby prevented from personally making inspections and investigations outside the State when the knowledge derived would be valuable to the institution represented.

Relative to the claim of George A. Hart, I would say that I have expressed, at some length, my views in regard thereto in a communication to the Board of State Auditors, copy of which I herewith enclose, which renders it unnecessary to make any further reference to that part of your communication.

In regard to the other matters submitted, I assume that you refer to those institutions of which the members of the boards in charge or in control, receive no compensation for their services, but their actual and reasonable expenses incurred in the performance of their official duties

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are paid by the State Treasurer, on the warrant of the Auditor General out of any moneys in the treasury not otherwise appropriated. It appears that the sole question necessary for consideration is, what acts are included, and what acts constitute those which are incidental to the performance of official duties? The answer to such a question must, at most, be limited, unsatisfactory and indefinite. As to whether or not a certain act is incidental to the performance of official duties must be determined from the particular circumstances of each individual case and the relation such act bears to the duties contemplated by the legislature as indicated in the language expressing its will and intent. A body of men, as a board, or its individual members, can not always be limited to the performance of those duties which are expressly set forth in the statute giving them authority to act. If this were true, the interests of the state and its institutions would often materially suffer from the inability of the legislature to foresee necessities and circumstances which arise, and for which there is provided no express remedy.

The authority, however, of a board to perform implied duties or those incidental to the performance of official duties, is by no means unlimited. A board or its members can not arbitrarily decide upon a certain line of action; incur expenses and receive reimbursement therefor in every instance, even though the State or its institutions may be materially benefitted through such acts. When the legislature has expressly provided for the performance of certain acts, in addition thereto a board or any members thereof, when authorized by their respective board, is limited to the performance of such acts as are impliedly, necessarily and reasonably an incident of the express act. Beyond this line, they can not go. If this were not true, there would be no limitation whatever upon their actions and the safeguard intended to serve as a check upon official action would be practically of no consequence.

However, granting all this to be true, I do not understand that an act which is considered as only incidental to the performance of official duties, must be performed by such board or the members thereof, to which you refer, within the limits or boundary lines of this State to entitle the person incurring the expense to reimbursement. If the act were an incident of official duty and the expenses incurred were actual and reasonable, I believe the person incurring such expense would be entitled to reimbursement, providing he was acting under authority of the board of which he is a member, and in the absence of any irregularity in the proceedings. In such case, if appropriation were made therefor by general law, it would be a proper account to be paid upon the warrant of the Auditor General, and if the payment for such claim was not provided for by general law, it would be a proper claim to be passed upon the Board of State Auditors.

The opinion of a former Attorney General, to which you refer, is, I assume, an opinion by ex-Attorney General Fred A. Maynard to the Board of State Auditors, reported on pages 54 and 55 of the report of the Attorney General for the year 1898. From an examination of that opinion, I do not think it was intended to lay down a broad rule that a claim for expenses incurred by the members of boards of State institutions outside the State could not in any case be audited by the Auditor

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General. Indeed, it is expressly stated in the fourth paragraph of that opinion that by "their actual and reasonable expenses incurred in the performance of their official duties," is meant simply those duties which are named in the act creating the board itself and which are incidental to the performance of those duties. That opinion holds that the acts of the person were not incidental to the performance of his duties, therefore the claim for expenses was not a proper one to be audited by the Auditor General. I fail to find anything therein inconsistent with the views to which I have given expression, and it certainly would not admit of so broad a construction as that intimated by you in your communication.

I believe the foregoing sufficiently expresses my views on the matters submitted for consideration.

Yours respectfully,
CHAS. A. BLAIR,
Attorney General.

October 14, 1903.

Board of State Auditors, Capitol, Lansing.

Gentlemen—I have your communication of the 1st inst., in which you submit for my consideration the claim of George A. Hart, one of the trustees of the Northern Michigan Asylum, asking my opinion as to whether or not it is a proper claim to be allowed by your body. You state that the claim is one for expenses incurred, by direction of the board of trustees of the above named institution, and was presented to your board at a meeting held June 24, 1903, together with a letter which, in sum and substance, states that the board of trustees of the Northern Michigan Asylum authorized Mr. Hart to go to Chicago and investigate certain bakery machinery and purchase what was necessary for a new bakery for which the legislature had made an appropriation; that the expenses include railroad fare and hotel bills, principally, and amounted in all to about $20. You also state that at the meeting of the said board it declined to allow the claim for the reason that a definite sum had been appropriated by the legislature, and that it was not within the authority of the Board of State Auditors to increase that appropriation by making an allowance in any way, for a purpose connected with the subject of the appropriation by the legislature.

The Board of State Auditors is a board created by the constitution of this State, and is given express authority to examine and adjust all claims against the State, not otherwise provided for by general law. (Art. VIII, Sec. 4, Constitution.) Regardless of the benefits which the said institution may have derived, the said board would have no authority to adjust the claim in question if provision is otherwise made for its payment by general law. The matter, then, resolves itself into the question, has provision been made by general law for the payment of expenses of this nature? If so, the action of your board, in refusing to pass upon the matter or consider the claim, was a proper one. Section 7 of Act 135 of the Public Acts of 1885, which governed the action

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of the trustees of the Northern Michigan Asylum at the time this claim arose and when it was presented to your board, provides that, "The trustees of the asylum shall receive no compensation for their services, but their actual and reasonable expenses incurred in the performance of their duties shall be paid by the State Treasurer on the warrant of the Auditor General, on the rendering of their accounts, out of any money to the credit of the general fund not otherwise appropriated." The language of this section limits the expenses which may be incurred by the trustees and for which they are entitled to reimbursement, not only to the actual expenses, but also such expenses as are reasonable, which are incurred in the performance of their duties. And while a legislature, in its wisdom, can not reasonably expect to forsee all of the details and outline every duty which may devolve upon the board of any State institution or its individual members in order to carry out its mandate, as expressed in its acts, it is but an elementary proposition to say that the trustees are entitled not only to reimbursement for expenditures incurred in the performance of duties expressly provided for, but also for such duties as may be reasonably incident to the proper performance of the carrying into effect of the clear and manifest intention of the legislature.

By the provisions of Act No. 151 of the Public Acts of 1903, $6,785 is appropriated for the Northern Michigan Asylum for "addition to bakery and baking machinery." There is not, in this act, any provision made for the expenses which, of necessity, must be incurred in making such addition or installing the machinery, and so far as I have been able to determine, there is no provision made in any other act for the payment of such expense. In the absence of express provision outlining the method of carrying into effect the legislative will, the board of trustees had ample authority to act, and was the only board or body which could act, under the circumstances.

Section 4 of Act 135 of the Public Acts of 1885, being Section 1896 of the Compiled Laws of 1897, provides in part that "Said boards shall have the general direction and control of all the property and concerns of the several institutions over which they are appointed, not otherwise provided for by law, and shall take charge of their general interests, and see that their designs be carried into effect, and everything done faithfully according to the requirements of the legislature and the by-laws, rules and regulations of the asylums." Since no other provision is made, the board of trustees has authority, under this section, to make the improvements and addition for which the appropriation was made. And if, in its discretion, the board of trustees of that institution deemed it necessary and advisable to send a committee or one of the individuals comprising such board to a place where similar improvements to those contemplated were in operation, or in order to make investigations and gain a knowledge thereof, which would be directly beneficial to the State, I believe such an act is one which is incident to the performance of official duties, and that the expenses incurred, if reasonable and actual, and incurred at the instance and under direction of the said board, constitute a claim against the State, which should be paid, if at all, on the warrant of the Auditor General, out of any moneys not otherwise appropriated, in the same manner as is provided for the payment of other expenses.

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I assume from your communication and copy of Mr. Hart's letter, that the entire amount of the expense in question was incurred in examining certain bakery machinery, for which appropriation was made by the legislature. In the passage of an act, it is always presumed that the legislature is aware of existing laws. Since the legislature, in making the above appropriation, did not expressly provide the manner in which its intention should be carried out, I believe, in addition to the authority already vested in the said board of trustees, the legislature impliedly granted authority to the said board to make such investigations as are referred to in your communication. But to the extent that your board is concerned, I believe it very properly declined to allow the voucher as presented by Mr. Hart. Had the claim been adjusted by your board, I am of the opinion it would have been an assumption of authority not warranted in law or by the circumstances of the case, and that it would be adjusting a claim, the payment for which, money is otherwise appropriated.

Yours respectfully,
CHAS. A. BLAIR,
Attorney General.

INHERITANCE TAX LAW.—Where a person has not been heard from for over seven years and upwards, date of death is day on which the seventh year period expired.

October 16, 1903.

Hon. Harry L. Larwill, Judge of Probate, Adrian, Mich.

Dear Sir—I have before me your communication of September 28th, in which you state that the estate of one Loten J. Helmes, of your county, is in process of settlement in the probate court, the petition for administration therefor, which was filed August 11, 1902, alleging that he has not been heard from for over seven years and upwards, and that the last time he was heard from was on the first day of July, 1895. Under this state of facts you ask me whether or not the distributive share of the estate, which descends to a nephew of the said decedent, would be subject to the provisions of Act 188 of the Public Acts of 1899, as amended.

Replying thereto would say, that under the provisions of Act 188 of the Public Acts of 1899, commonly known as the inheritance tax act, it has been repeatedly held by the judges of probate throughout this State and by the courts of New York, in construing a similar law, that the date of transfer of property is the date of death of the decedent. In order to avoid any question, it was expressly stated in the amending act of 1903 that the date of death fixes the date of transfer. Under the state of facts submitted by you, if the person in question died prior to the time the inheritance tax act was in force and took effect, there is no question but the transfer of the property of the said above estate would not be subject to an inheritance tax.

The probate court derives its authority to entertain proceedings and authorize the administration of the estate of the person in question only

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upon a showing that such person has disappeared, that his whereabouts have remained unknown for a period of seven years, and that no knowledge of such person can be obtained, which raises the legal presumption of death. In the absence of a showing to the contrary, a less period of time will not suffice to raise such presumption. And unless there is some fact or circumstance which will satisfactorily tend to show that the person's death occurred at a prior or subsequent time, it is, I believe, quite uniformly held by the courts, that the person died at the expiration of the period. In such cases there is never a presumption as to the person having been dead or alive at any particular time during the seven years, but, on the contrary, he is presumed to have died at the end of such period. American and English Ency. of Law, 1st Ed., Vol. 1, p. 38, note, and cases cited. I believe it to be a general rule that in order to raise a presumption that a person who has been absent and unheard of for seven years died at any certain or particular time during that period, the evidence bearing thereon must be of such positiveness and directness as to make it more probable that the person died rather than that he survived until the expiration of the period. Bailey v. Bailey, 36 Mich. 189. It is true that the authorities differ somewhat in passing upon this question, but I believe there is a preponderance of the decisions favoring the principles as above enunciated.

Applying these principles to the facts as submitted by you, I believe that when there is a showing made of sufficient force to raise the presumption of the death of the person, there exists at the same time, in the absence of any affirmative evidence to the contrary, a presumption that the person died at the expiration of the seven years. This would make the event of the person's death in question at a time when the inheritance tax law was in full force and effect, and since the date of death is the date of transfer, the transfers of the property of the estate in question would be subject to its provisions. It is, therefore, my opinion, that in the absence of any facts other than those stated in your communication, the transfers in the estate of Loten J. Helmes would be subject to the provisions of Act 188 of the Public Acts of 1899, as amended, to the same extent as though the said decedent had not been absent, and died on the day of the expiration of the seven year period.

Yours respectfully,

CHAS. A. BLAIR,

Attorney General.

RAILROAD LAW.—Section 5246, C. L. 1897, so far as it relates to shipments originating at and destined to points within the State, is valid if the rate prescribed is reasonable. So far as switching forms portion of an interstate shipment, its regulation is beyond State authority. Where delivery is made to terminal or switching company as a connecting carrier as a part of the through shipment, the switching is a part of the interstate transportation. Where consignor delivers goods to switching company simply to get them upon the route of the carrier which initiates the interstate transportation and into the avenues of interstate commerce, the consignor maintaining con-

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trol and the right to still fix the destination, and not intending immediate through shipments to points without the State, the switching is not a part of the interstate commerce. In case a carrier refuses to transport at rate fixed by statute, the shipper may pay the rate demanded, under protest, and then bring suit to recover; or file a bill in equity to restrain the charging of more than the statutory rate; or the Commissioner of Railroads, by direction of the Attorney General, could institute mandamus proceedings to compel the carriage at the statutory rate; or such a refusal might be a misdemeanor, under the terms of Sections 11330 and 11331, C. L. 1897.

October 23, 1903.

Mr. Theron W. Atwood, Commissioner of Railroads, Capitol, Lansing.

Dear Sir—You request my opinion as to whether Section 5246 of the Compiled Laws of 1897 regulates the amount which may be charged for switching cars from one railroad to another, under any or all circumstances, enclosing letter from Mr. Ledyard, President of the Michigan Central Railroad Company, stating his position with regard to certain switching done by his company.

The service in question is evidently required by Sections 5220, 6253 and 6266, C. L. 1897, and the rate of charge is prescribed by Section 5246, which provides:

"(5246.) Section 1. The People of the State of Michigan enact, That in transporting loaded or empty cars from or to the side tracks of any manufacturing or other establishments located on the line of any railroad, no charge shall be made, and for transporting such cars to the main line or side tracks of any other railroad, no railroad company shall charge for each of such cars to or from such side tracks a sum exceeding one dollar for each half mile of distance so transported."

The language of this section is clear and requires no construction, hence I take it that your inquiry is directed to the question suggested by the letter of Mr. Ledyard, of whether the terms of the act should be so restricted as to cover only shipments originating at and destined to points within the State, or whether it is also applicable to shipments to and from points beyond the limits of the State.

That it is within the authority of the State to enact a statute fixing the rate of charge to be made by public service corporations, subject to the limitations that, interstate and foreign commerce must not be interfered with and, the rates fixed must not be so unreasonably low as to deprive the carrier of property, is clearly settled. In this latter respect the statute is presumptively reasonable, and will not be set aside unless clearly and palpably shown to be an invasion of property rights by the party objecting to the inadequacy of the rate fixed.

So far, then, as commerce wholly within the State is concerned, the statute is controlling, unless clearly shown to require transportation at an unreasonable rate. It is also settled that commerce, interstate and foreign, can not be affected by State regulation, and the question of the extent of the operation and validity of this statute, therefore, depends upon whether the switching for which the charge is prescribed by statute is commerce between the states. If the interstate commerce in articles, goods or merchandise to be transported beyond the limits

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of the State begins with the delivery to the switching company, and in case of shipments from beyond the State to points within, terminates with the delivery by the terminal or switching company to the consignee, the switching charge is not subject to regulation by state laws.

We, therefore, inquire when the interstate shipment begins and ends, and this, to some extent, depends upon the peculiar facts surrounding the shipment. If the articles of commerce are billed in car load lots by the switching company, as a connecting carrier, over its line and over the lines of connecting carriers, to points outside the State, a different rule might apply than in cases where the switching is separate and distinct from the interstate transportation, and for the purpose of getting the goods and merchandise into the avenues of interstate commerce, is not represented by a through bill of lading, and the goods did not in fact leave the control of the consignor until after delivery to the carrier or carriers which were to transport them beyond the limits of the State.

The rule as to when the interstate commerce begins is stated in the case of The Daniel Ball, 10 Wall, 557, 563, to be that, "Whenever a commodity has begun to move as an article of trade from one state to another, commerce in that commodity between the states has commenced. The fact that several different and independent agencies are employed in transporting a commodity, some acting entirely in one state and some acting through two or more states, does in no respect affect the character of the transaction. To the extent in which such agency acts in that transportation, it is subject to the regulation of Congress." In Coe v. Errol, 116 U. S. 517, logs were cut in the State of New Hampshire and drawn to and placed in and on the banks of Clear's stream, in that state, to be from thence floated down the Androscoggin river to the State of Maine, to be manufactured and sold; the owner of the logs resisted taxation in the State of New Hampshire, on the ground that they were in the course of interstate commerce and beyond the jurisdiction of the state to tax. The court in holding the logs taxable and determining that they were not in the course of interstate commerce, said: "There must be a point of time when they cease to be governed exclusively by the domestic law and begin to be governed and protected by the national law of commercial regulation, and that moment seems to us to be a legitimate one for this purpose, in which they commence their *final* movement for the transportation from the state of their origin to that of their destination. When the products of the farm or forest are collected and brought in from the particular region, whether on a river or a line of railroad, such products are not yet exports nor are they in process of exportation, nor is exportation begun until they are committed to the common carrier for transportation out of the state to the state of their destination or have started on their ultimate passage to that state. (525) * * * Though intended for exportation, they may never be exported, the owner has a perfect right to change his mind; and until actually put in motion, for some place out of the state, or committed to the custody of a carrier for transportation to such place, why may they not be regarded as still remaining a part of the general mass of property in the state? (526) * * * Such goods do not cease to be part of the general mass of property in the state, subject, as such, to its jurisdiction, and to taxation in the usual way,

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until they have been shipped, or entered with a common carrier for transportation to another state, or have started upon such transportation in a continuous route or journey. We think that this must be the true rule on the subject." (527.)

The mere fact that the switching or terminal company performs its entire service in regard to the transportation within the state and makes delivery to the carrier which is to take the commodity beyond the limits of the state, does not affect the question or relieve the carriage or service of its character as interstate commerce. In the case of The Daniel Ball, supra, a vessel was engaged in navigating Grand river, between the cities of Grand Rapids and Grand Haven, transporting merchandise and passengers between those places, some of the goods carried being destined and marked for places in other states than Michigan, and some coming from other states destined for places within this State. As the service of this vessel was entirely within the State, and she did not run in connection with, or in continuation of, any line of vessels or railway leading into other states, it was claimed that she was engaged in domestic commerce, entirely. The court refused to take this view, and held that the vessel was subject to federal regulation as being engaged in interstate commerce. In Cutting v. Florida Railroad & Navigation Co., 46 Fed. 641, it was held that where organge growers in Florida shipped their fruit from one place in that state to another point in the same state, consigned to their agent at the latter point for reshipment, who immediately forwarded them to their destination in another state, the shipment to the forwarding agent was interstate commerce and not subject to the control of the Florida railway commission. The same rule was applied in Houston, etc., Navigation Co. v. Insurance Co., 59 Am. St. Rep. 17, and in State v. Gulf, C. & S. F. Ry. Co., 44 S. W. (Tex.) 542. Norfolk, etc., Ry. v. Penn., 136 U. S. 119.

In Fielder v. Mo., K. T. R. R. Co., 42 S. W. 362, the Supreme Court of Texas held that the power of Congress to regulate interstate commerce extends to the necessary switching of cars and the delivery at terminal points; (Chicago, Milwaukee & St. Paul v. Becker, 35 Federal 883) in Interstate Commerce Commission v. C. B. & Q. R. R. Co., 98 Fed. 173, action was taken by the Interstate Commerce Commission to regulate switching charges. And in Bosworth v. Chi., Mil. & St. Paul R. R. Co., 87 Fed. 89, the terminal company was held to be a connecting carrier; while in Walker v. Keenan, 73 Fed. 755, it was held that the providing of means of loading, unloading and caring for freight, pending its delievery to the consignee, was incidental to its business of transporting; and in Rhodes v. Iowa, 170 U. S. 412, 426, that the interstate character of the transportation did not cease until the delivery to the consignee and that the moving of goods from the platform to the freight warehouse was a part of the interstate commerce.

Similar in principle to the case you present, are the cases of tug boats engaged within the limits of a certain city or state in lightering or towing vessels engaged in interstate commerce; in regard to which it has been uniformly held that they are as fully engaged in interstate commerce as the vessels which they lighter or tow, and are subject to congressional, and protected from state, legislation and regulation. Foster v. Davenport, 22 How. 244; Harmon v. Chicago, 140 Ill. 374, Id.,

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147 U. S. 407; Moran v. New Orleans, 112 U. S. 69. In Foster v. Davenport, supra, it was said: "The port of Mobile is resorted to and frequented by ships and vessels, of different size in tonnage, engaged in the trade and commerce of the United States with foreign nations and among the several states; that the vessels of small size and tonnage are accustomed to come up to the wharves of the city and discharge their cargo, but that large vessels frequenting said port can not come up, on account of the shallowness of the water in some parts of the bay, and are compelled to anchor at the lower bay, and to discharge and receive their cargo by lighters; and that the steamboat of claimants was engaged in lightering goods to and from said vessels and in towing vessels to and from the lower bay and the wharves of the city.

It is quite apparent, from the facts admitted in the case, that this steamboat was employed in aid of vessels engaged in foreign or coastwise trade and commerce of the United States, either in the delivery of their cargoes, or in towing the vessels themselves to the port of Mobile. The character of the navigation and business in which it was employed cannot be distinguished from that in which the vessels it towed or unloaded were engaged. The lightering or towing was but the prolongation of the voyage of the vessels assisted to their port of destination."

Certain of the federal circuit courts have held the switching charge to be a matter of state regulation, where it is separate and distinct from the interstate transportation, as being upon separate way bill and subjected under the contract of the parties to a separate rate for the service. Among these cases being, Becker v. Chi., Mil. & St. P. R. R. Co., 32 Fed. 849, 854;(see, however, remarks of Judge Brewer in the same case, 35 Fed. 883), Iowa v. Chi., etc., R. R. Co., 33 Fed. 391. These cases proceed upon the theory that as the service is separate, and is performed entirely within the state, its regulation by state authority is permissible, even though interstate commerce may be incidentally affected, and police regulations, for the convenience of the people of the State, indirectly interfering with interstate commerce have often been permitted. Thus, a state regulation requiring trains carrying interstate passengers to stop at certain stations, was held valid, (Lake Shore R. R. Co. v. Ohio, 173 U. S. 285). Also statutes prohibiting the running of freight trains engaged in interstate commerce on Sunday, have been held proper state legislation, (Hennington v. Ga., 163 U. S. 299); as also has a statute requiring the delivery of interstate telegraph messages with due diligence, (W. U. Tel. Co. v. Jones, 163 U. S. 650); and a statute prohibiting the consolidation with parallel or connecting lines, (L. & N. R. Co. v. Com., 161 U. S. 677). These cases have not, however, gone to the extent of permitting the state to burden, for the convenience only of the public, or to prescribe rates for, any part of the interstate commerce.

State statutes incidentally affecting interstate commerce have also been held valid as not interfering with that commerce, but as expediting it, (Jacobson v. Wis., etc., Ry. Co., 179 U. S. 287, 71 Minn. 519; State v. Jacksonville Terminal Co., 27 So. 225). In Houston, etc., Nav. Co. v. Insurance Co., supra, it was, however, held that the character of the commerce was not affected by the character of the contract between the shipper and the carrier, but was dependent upon whether the commodity was intended and started for shipment through or into several

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states, which, it seems to me, expresses the correct rule. State v. Gulf, C. & S. F. Ry. Co., 44 S. W. (Tex.) 542.

The following conclusions may be drawn from the cases:

(*a.*) That the statute in question, so far as it relates to shipments originating at, and destined to, points within the state, is valid, if the rate prescribed is reasonable;

(*b.*) That so far as the switching forms a portion of an interstate shipment its regulation would be beyond state authority;

(*c.*) That where the delivery is made to the terminal or switching company as a connecting carrier, as a part of the through shipment, the switching is a part of the interstate transportation;

(*d.*) That where the consignor delivers the goods to the switching company simply to get them upon the route of the carrier which initiates the interstate transportation and into the avenues of interstate commerce, the consignor maintaining control and the right to still fix the destination, and not intending immediate through shipment to points without the state, the switching is not a part of the interstate commerce.

Where, in a proper case, the carrier refuses to transport at the rate fixed in the statute, the shipper can find redress by paying the rate demanded under protest, and bringing suit to recover; or by filing a bill in equity to restrain the charging of more than the statutory rate; or the Commissioner of Railroads, by direction of the Attorney General, may institute mandamus proceedings to compel the carriage at the statutory rate; and I think that it is possible that the refusal to comply with the terms of the statute would be a misdemeanor, under the terms of Sections 11330, 11331, C. L. 1897, and subject to penal action.

Yours respectfully,

CHAS. A. BLAIR,
Attorney General.

CONSTITUTIONAL LAW.—Legislative repeal of act providing for appointment of public officers. Act No. 281, Local Acts of 1901, and House Enrolled Act No. 258, 1901, both referring to the appointment of a superintendent of abstracts for Jackson County, are constitutional and valid. The right to hold office terminated upon repeal of act providing for appointment.

Lansing, Michigan, November 7, 1903.

Forrest C. Badgley, Prosecuting Attorney, Jackson, Michigan.

My Dear Sir—I have before me your communication of the 16th ult., in which you submit for my consideration certain questions relative to the act authorizing the County of Jackson to make and maintain a set of abstract books.

The facts, so far as they are material for the purposes of this communication, are, that the Legislature of 1901 passed local act No. 281, which was "An act to provide for the control, by the supervisors of Jackson County, of certain classified index or abstract books, and for the making and maintenance thereof, and for the use thereof by the

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public." The act gave to the board of supervisors authority to provide for the making and maintenance of such books and for the appointment of a superintendent for the purpose of caring for and maintaining and having the custody of said books, such superintendent, when so appointed, to hold his office during the pleasure of said board, and at such salary as should be fixed. It appears that on October 23, 1902. upon resolution of the said board of supervisors, one Charles H. Manly was duly and regularly appointed superintendent of abstract books, at a salary of $2,500 for himself and two clerks, which was in full for all services rendered by the said superintendent and such clerks in the abstract office proper and as superintendent of the journalization of their records in such other offices as the board of supervisors shall direct. That on the 8th day of November, 1902, a contract was entered into between the said Charles H. Manly and the committee on abstracts, based upon the resolution of the board of supervisors and the act above referred to, which it is unnecessary to refer to at this point, except to state, that in such contract no definite time was provided during which it was to be in force, and that it outlined in detail some of the duties imposed on the said superintendent of abstracts.

The Legislature of 1903 amended Act No. 281 of the Local Acts of 1901, by the passage of House Enrolled Act No. 258. Every section of the original act was amended under the original title. This later enactment continued the supervisory control over the said abstract books in the hands of the board of supervisors of Jackson County, but provided that the register of deeds of said county should be the superintendent of abstracts, that he was to give a bond for the faithful performance of his duties, that in payment for such services as such superintendent of abstracts, he should receive one-half of the fees received during any year for such services; that no money should be appropriated out of the county treasury for clerk hire or assistance in keeping or maintaining such abstracts in excess of the fees received during the current year, and prescribed duties similar to those imposed upon the superintendent of abstracts under the earlier act.

Under the above statement of facts, you ask my opinion, first, as to the rights of Charles H. Manly and the County of Jackson, under the contract, bearing date November 8, 1902; and, second, my opinion as to the board of supervisors having power under the law as it now stands to complete the abstract books.

It may be proper in the beginning, to look first to the original act and to the later enactment as to their constitutionality. In your communication of September 22, 1903, to the abstract committee of the board of supervisors of Jackson County, as printed in the Morning Patriot on Thursday, October 15, 1903, it seems to be your opinion that not only the amending act, but also the original act is unconstitutional. In the communication of Richard Price, under date of September 17, 1903; which is printed in the publication above referred to, the constitutionality of the amendment is attacked, which seems to be placed upon the broad ground that it conflicts with Section 20 of Article 4 of the Constitution, which provides in part that: "No law shall embrace more than one object, which shall be expressed in its title."

The title of the original act clearly refers to the accomplishment of a single object, which is the making and controlling, by the board of

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supervisors, of certain publications for the use of the public generally. I do not find any language used in the body of the act which would seem to be inconsistent with the intent as expressed in the title. The necessary machinery in order to carry out the legislative will, is provided for without in anywise relinquishing the complete and supervisory control delegated to the board of supervisors as is expressly referred to in the title. The said board is given authority to appoint a superintendent and fix his salary, and provide places for carrying on the work. The language also, of necessity, gives such board certain implied powers, to which it is unnecessary to make reference. My attention has not been challenged to anything appearing upon the face of this act that would make it appear other than valid and constitutional. Since no definite reason is stated by you for taking such a stand upon this measure, I do not consider it necessary to enter into any further discussion of the act in question.

With regard to the act of 1903 in question, I fail to see how the constitutional provision sought to be invoked for the purpose of proving the act unconstitutional, is applicable. The title of the act remains the same as in the original act, and every section is set forth in full, and the authority of the board of supervisors is in no wise diminished from that given under the prior enactment. But it is said: "The body of the amendment seems to have principally for its object the control by the register of deeds of such business." It is true that the radical change in the amending act is the making of the register of deeds the superintendent and custodian of such abstracts and outlining his duties in regard thereto. Section 3 of Article 10 of the Constitution provides in part that: "In each organized county there shall be * * * a register of deeds * * * chosen by the electors thereof once in two years and as often as vacancies shall happen, whose duties and powers shall be prescribed by law." Under this constitutional provision the legislature had unquestioned authority to increase the duties of the register of deeds. Indeed, there is scarcely a session of the legislature that this officers's duties are not increased. And does the fact that the legislature has added to his duties provide another object in the language of the body of the act in question? Primarily the object remains the same. The ultimate intent of the legislature in both acts was to provide abstract books in the County of Jackson. The register of deeds, under the act of 1903, has no more right to the absolute control, than the superintendent of abstracts appointed under the amended act. The language of the act expressly states that the classified index or abstract books of the County of Jackson now and hereafter prepared under the resolution of the board of supervisors of said county, shall be under the control of said board of supervisors, and the duties of the register of deeds are subject to the direction of the said board, and he is required to perform such duties in respect thereto as the said board of supervisors may prescribe. The register of deeds is subject to the supervisory will, direction and control of the board of supervisors. I fail to see wherein the language of the amendment has for its object to provide for the control by the register of deeds of the abstract books. I know of no good reason why the register of deeds could not have been made superintendent of abstracts under the old law, and if such a provision could have been included in the original act, it could have been included

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in the amendment under the same title. Attorney General, ex rel., Maybury v. Bolger, 128 Mich. 355; Soukup v. VanDyke, 109 Mich. 680.) I believe the amendment is free from such constitutional objection. The body of the act, so far as I have been able to discover, contains no provision or provisions not germane to the subject indicated by the title and authorized by it. The fact that the legislature in its discretion authorized additional duties for the register of deeds, is not a good ground for constitutional objection. The fact that the register of deeds is required to give a bond, is but a reasonable requirement, in view of the increased duties imposed upon him. I am inclined to believe that all of these duties could be legally imposed upon the register of deeds and still have the act in question free from the objection sought to be interposed.

With reference to the questions directly submitted by you, I believe their solution depends upon whether or not the office of superintendent of abstracts provided for in the original act and by the resolution of the board of supervisors, is a public office, and if the incumbent appointed to occupy such position is a public officer. If the superintendent of abstracts is a public officer, then, in the absence of constitutional limitations, the legislature has authority to abolish the office, at any time in its discretion, and any contract entered into between the incumbent and the county would be of no force and effect from the time the later enactment became effective. Section 2 of Act No. 281 of the Local Acts of 1901, provides in part, that "The said board of supervisors shall have the power of appointing a superintendent for the purpose of caring for and maintaining and having the custody of said books, such superintendent when so appointed, to hold his office during the pleasure of said board." Section 5 authorizes the said board to fix the salary of the said superintendent. Sections 3 and 4, exclusively and specifically, outline certain duties imposed upon the superintendent, and the remainder of the act is devoted to the outlining of the work necessary to carry into effect the legislative will. Thus the legislature has provided for the appointment of a person to a position in which, upon the resolution of the board of supervisors and his acceptance and his otherwise complying with the requirements of the said act, he has certain definite duties to perform outlined as above, and is accountable and subject to the direction and supervisory control, of the appointing power. The question, then is, would such appointee be a public officer? There are various definitions of the term "public officer," but when examined, their meaning is practically identical. A public office is defined to be, "A position of appointment entailing certain rights and duties." (Cochran Law Lexicon.) "A right to exercise a public function or employment and to take the fees or emoluments belonging to it." (Bouvier Law Dictionary; Black's Law Dictionary.) "A public office is the right, authority and duty created and conferred by law, by which, for a given period, either fixed by law or ending at the pleasure of the creating power, an individual is invested with some portion of the sovereign functions of the government, to be exercised by him for the benefit of the public. The individual so invested is a public officer." (Mechem Public Officers, par. 1.) It may be stated as universally true, that where an employment or duty is a continuing one, which is defined by rules prescribed by law, and not by contract, such a charge or em-

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ployment is an office, and the person who performs it is an officer. (Hill v. Boyland, 40 Miss. 625.) The term "officer," in its common acceptance, is sufficiently comprehensive to include all persons in any public station or employment conferred by the government. (Vaughn v. English, 8 Cal. 41.) "Whoever has a public charge or employment affecting the public, is said to hold or be in office." (Rowland v. Mayer, etc., 83 N. Y. 376.) "Where an individual has been appointed or elected in the manner prescribed by law, and a designation or title given him by law, he must be regarded a public officer." (Bradford v. Justices, etc., 33 Ga. 336.) (Throop Public Officers.) We may find various other definitions, but the underlying principle running throughout all of them is, that a person in order to be called a "public officer," must be serving the public, and that the right to so act must be conferred either through appointment or election by authority of the government. Does not the incumbent of the position for which the legislature provided in Act No. 281 of the Local Acts of 1901, come within these definitions, as indicating what constitutes a public officer? Here was an office provided for, and as soon as a person was chosen to occupy it, certain and specific duties became his, such duties being generally provided for by the legislature. It is true that it depended upon the resolution of the board of supervisors, but that was only a means provided by the legislature for carrying into effect its clear and expressed intent. The superintendent of abstracts would not need to be armed with any express contract in order to be authorized to perform the duties imposed by the act. Because a contract was entered into cannot serve to alter the determination. The contract was based upon the act of the legislature; was at most a guide for the duties to be performed and can not be interposed as a defense to legislative action. Kendall v. Canton, 53 Miss. 526. It is true the act gives the board of supervisors undisputed authority to control, care for and maintain the books in question. But this fact can not operate to change the nature of the position provided for. Regardless of the duties the board of supervisors may have outlined for the superintendent of abstracts upon his appointment, and before the board of supervisors directed the performance of any act, there were imposed upon him certain duties which were defined by the language of the act, which gave the board of supervisors authority to appoint, and made his duties appertaining to his position those of an officer of the government, and not in the nature of those which are imposed upon individual contractors. Had this board the authority, in the absence of the act in question, to appoint anyone superintendent of abstracts? If not, the authority of the appointment comes directly from the legislature, through its agent, the board of supervisors. In this case, express provision is made by law for appointing to an official position. It is easy to distinguish between such a position and one of ordinary employment, from the fact that the powers derived by the appointee are created and conferred by law. Though an employment may be created by law, it is not necessarily so, but is often the creature of contract. A public office, on the other hand, is never conferred by contract, but finds its source and limitations in some act or expression of the governmental power. (Mechem Public Officers, par. 5.) Again, the act provides that the superintendent when so appointed, shall hold his office during the pleasure of the board, etc. This fact can certainly

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be taken as an indication that it was the intent of the legislature to provide for a public officer. "The fact that the place is designated in the law providing for its creation as an 'office,' affords some reason for determining it to be such." (Mechem Public Officers, par. 10.) Taking into consideration all of the language used in the original act, and also of the later enactment of the legislature, it would appear that the position provided for was a public office, and that the incumbent thereof would be a public officer.

If then, the position taken is a correct one, what rights has the appointee, upon the repeal of the law authorizing his appointment? I believe the general proposition, that the legislature has power to increase or vary the duties or diminish the salary or other compensation appurtenant to an office or abolish any of its rights or privileges, before the end of the term, or to alter or abridge the term or to abolish the office itself, is too well grounded in our law to admit of dispute. (Throop, Public Officers, par. 19.) Unless there is a general limitation placed upon the legislature by the constitution, forbidding it to abolish an office by repeal of an act, the legislature has authority at any time it may deem it wise and prudent, in its discretion, to pass such laws as shall have the effect of legislating an officer out of his official position. The legislature is authorized to confer upon organized townships, incorporated cities and villages, and upon the board of supervisors of the several counties, such powers of a local legislative and administrative character as they may deem proper. (Section 38 of Article 4 of the Constitution.) Since the legislature was invested with the authority to so prescribe such duties and the manner thereof, it has the right to enact any measure which does not interfere with constitutional rights and privileges. It is vested with all the powers of government not denied it by the constitution, and that instrument contains nothing which can be construed to take away from the law-making power the right to legislate in regard to county matters. There is no written provision in the constitution of our State forbidding the legislature from enacting local laws, or from suspending or repealing any general law enacted for a certain locality. (Feek v. Township Board, 82 Mich. 393.) (People v. Hanrahan, 75 Mich. 611.) An officer appointed for a definite time, or even during good behavior, has no vested interest or contract right in such an office, and there is but little difficulty in showing that no such interest or rights exist in any position which has the elements of a public office. (Crenshaw v. United States, 134 U. S. 99.) Public officers have not the character or qualities of grants. There are few exceptions to the rule that they are voluntarily taken and may be at any time resigned. They are created for the benefit of the public, and not for the benefit of the incumbent. (Mechem Public Officers, chap. 7.) (Throop Public Officers, par. 9.) Public offices can not be called property, within the meaning of any of our constitutional provisions. If they could be, it would follow that every public officer, no matter how insignificant the office, would have a vested right to hold his office until the expiration of the term. Public offices are created for the purposes of government. They are delegations of portions of the sovereign power for the good of the public. They are not the subjects of contracts, but they are agencies for the state, revocable at pleasure by the authority creating them, unless such authority be

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limited by the power which conferred it. The legislature may remove officers, not only by abolishing the office, but by an act declaring it vacant. A removal from office through the instrumentality of the legislature does not deprive the person of property. (Attorney General v. Jochim, 99 Mich. 367, 368, 369.) Neither does the repeal of such law impair the obligation of the contract which existed between the appointee and the county. (Hall v. State, 39 Wis. 79.) The case of Kendall v. Canton, 53 Miss. 526, is directly in point with the facts in question. In that case a person was appointed by the mayor and aldermen of the city to an office for one year, at a stated salary. A few months subsequent to his appointment the legislature passed an act taking from the said city the power of appointing such officer, and vesting such power in the board of supervisors of the county and repealing all of the ordinances of the city on that subject. Upon being ousted from his office, the person in question sued the city for damages. In holding that it was a proper action upon the part of the legislature, and that the person so ousted from office had no vested rights, the court said: "It may well be doubted, whether, under this statute, it was competent for the mayor and aldermen to appoint a person to office by contract or otherwise for any term which would prevent themselves or their successors from exercising their discretionary power of removal. However this may be, it is clear that they could not by any contract deprive the legislature of its right to change, alter or abolish the office at pleasure. When that body, therefore, by the act of 8th of April, 1873, virtually abolished the office to which the plaintiff had been appointed, and repealed all ordinances of the city of Canton in conflict with this enactment, it was the exercise of vis major which the plaintiff and the authorities of the state are alike powerless to resist. * * * The action sounds in damages, and proceeds upon the idea of a vested right to hold for the full term for which the plaintiff had been selected. Nothing is better settled than the legislative power to terminate at pleasure the incumbency of a statutory office, either by the abolition of the office itself or by a change in the tenure of the mode of appointment." (pp. 530, 531.) "When the State employs officers or creates municipal corporations as the mere agencies of government, it must have the power to discontinue the agency whenever it becomes to be regarded as no longer important. * * * They may, therefore, discontinue offices and abolish or change the organization of municipal corporations at any time, according to the existing legislative view of State policy, unless forbidden by their constitutions from doing so." (Cooley on Constitutional Limitations, 4th ed., p. 366 and notes.) "The selection of officers, who are nothing more than agents for the effectuating of such public purposes, is matter of public convenience or necessity, and so too are the periods for the appointment of such agents; but neither the one nor the other of these arrangements can constitute any obligation to continue such agents, or to reappoint them, after the measures which brought them into being shall have been found useless, shall have been fulfilled, or shall have been abrogated as even detrimental to the well-being of the public. The promised compensation for services actually performed and accepted, during the continuance of the particular agency, may undoubtedly be claimed, both upon principles of compact and of equity; but to insist beyond this on the perpetuation of

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a public policy either useless or detrimental, and upon a reward for acts neither desired nor performed, would appear to be reconcilable with neither common justice nor common sense." (Butler v. Pennsylvania, 10 How. 437, 438.) Neither public corporations nor their officers nor agents can acquire vested rights in the powers which are conferred upon them. No political power can become a vested right as against the government. A right to the office exists subject to the will of the legislature, and may be repealed or withdrawn either by general law or special statute. (Elliott, Elements of Municipal Corporations, par. 38.)

In view of the foregoing, I do not consider it necessary to enter into any further discussion in order to disclose my opinion upon the matter submitted, and believe that my conclusions are at once evident. When Charles H. Manly was appointed superintendent of abstracts by the board of supervisors, he was appointed under the authority which had been vested in such board by the legislature. It is true that there are certain illustrations of positions somewhat similar to the one in question, which were held not to be public offices. But I believe it is also true that in most of those cases the positions were not authorized by any express law, and were not conferred by the legislature. It is clearly my opinion that Mr. Manly was a public officer. If the appointee of such position was a public officer, I do not think it will be disputed, that he had no vested right in the office, but that it was within the power of the legislature to repeal the act which made his appointment possible, and that upon the amending act becoming effective, his right to hold office terminated, as did also the contract existing between him and the county.

As to the power of the board of supervisors, under the law as it now stands, to complete the abstract books, I know of no reason why the amendatory act does not give such board express authority to direct the completion of the work in the manner indicated. I do not wish to be understood, and I do not think the above conclusion can be construed to mean, that such board is prohibited from carrying on the work instituted under authority of the original act. The act now in force outlines the procedure to be followed, and affords the said board ample authority to direct the completion of the abstract books.

Respectfully yours,

CHAS. A. BLAIR,
Attorney General.

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CONSTITUTIONAL LAW.—The words "At the time of passage of this act," as used in Section 2, Senate Enrolled Act No. 113, of the Legislature of 1903, relate to the time when, under the Constitution the act became a law, and not to its date of passage.

November 25, 1903.

Dr. Frederick H. Williams, Secretary State Board of Osteopathic Registration and Examination, Lansing, Michigan.

Dear Sir—I am in receipt of your letter of the 28th of July, requesting an opinion as to the proper construction of that part of Section 2 of Senate Enrolled Act No. 113 of the Legislature of 1903, which provides that "Any person engaged in the practice of osteopathy in this State at the time of passage of this act, who holds a diploma from a regular college of osteopathy as determined by the board, and who makes application to the State Board of Osteopathic Registration and Examination before January 1, 1904, upon the payment of a fee of five dollars, shall receive a certificate from the board without examination." The subject of controversy is whether the words "at the time of passage of the act," as used in said section, relate to the date of passage of the act, or to the date when under the Constitution it becomes a law.

The act in question was approved May 28, 1903, but was not given immediate effect. Section 20, Article LV of the Constitution provides that: "No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the legislature shall otherwise direct by a two-thirds vote of the members elected to each house." Under this provision the act became operative September 17th.

A statute passed to take effect at a future day is to be understood as speaking from the time it goes into operation, and not from the time of its passage. (Price v. Hopkin, 13 Mich. 318; Rice v. Ruddiman, 10 Mich. 125.) In the latter case the court, speaking of an act not ordered to take immediate effect, said: "It took effect in May, 1859, and must be understood as beginning to speak at the moment when it became a law, and not before. *It must have the same construction as if passed on the day when it took effect, and directed by a two-thirds vote to take immediate effect.*" Grant v. City of Alpena, 107 Mich. 335.

The application of these rules to the construction of the act in question could not but result in the conclusion that the words of Section 2 must be understood as meaning the time of the taking effect of the act and not the time of its passage.

A similar question to that here presented was considered by the Supreme Court in Osborn v. Charlevoix Circuit Judge, 114 Mich. 655, where the court, referring to the provision contained in Act No. 151 of 1897, which was not given immediate effect, that "all nets bought after the date of the passage of this act shall be of the size prescribed herein," said: "We can not hold that this provision became effective before the act became a law under the Constitution."

The decisions of the courts of other states also sustain this view. In State v. Bemis, 45 Neb. 739, a provision in an act of the legislature for the appointment of a board of fire and police "within thirty days after its passage," was held to mean thirty days from the time when the

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act took effect as a law, viz., three calendar months after the adjournment of the legislature.

In Harding v. People, 10 Colorado, 392, a provision authorizing the state board of medical examiners "within ninety days after the passage of the act," to receive applications for certificates and examinations, was held, in the absence of an emergency clause, to be capable of but one meaning, namely, after the act went into effect, which under the constitution of that state was ninety days after its passage.

In Charless v. Lamberson, 1 Clark (Iowa), 442, a statute for the protection of homesteads, which made them liable for all debts contracted prior to its passage, was held to mean, prior to its taking effect, although that period was some time after its enactment.

This case is cited with approval by Justice Cooley in his opinion in the case of Price v. Hopkins, 13 Mich. 327.

In ex parte Lucas, 160 Missouri 218, an act of the legislature creating a board of examiners for barbers, and making it unlawful for certain barbers to pursue the occupation of a barber unless a license was procured from the board "within ninety days after the approval of the act," was before the court. It was there held that the words "within ninety days after the approval of the act" must, in the absence of an emergency clause be understood under the constitution to mean ninety days after the act can and does constitutionally take effect, that is, the ninety days within which the licenses were to be obtained did not begin to run until ninety days after adjournment.

No doubt the legislature possessed the requisite authority to give to any part of the act in question operation and effect prior to the expiration of ninety days from the end of the session by a two-thirds vote of the members elected to each house. The Journal of the House of Representatives (p. 1,600), however, shows that in the House the measure upon its final passage received sixty-three affirmative votes, and the Journal of the Senate (p. 1,107) shows that in the Senate twenty-three affirmative votes were recorded. It appears, therefore, that while in the Senate the act received a sufficient number of votes to give the same effect prior to the expiration of ninety days from the end of the session, yet in the House it lacked four votes of the required number.

In view of the previous decisions of the Supreme Court, I can not avoid the conclusion that the court would construe the words of Section 2 under consideration, to refer to the time when under the Constitution the act becomes a law, rather than to the time of its passage.

I therefore am of opinion that the words "at the time of passage of this act," as used in Section 2, relate to the time when under the Constitution the act becomes a law.

Yours respectfully,

CHAS. A. BLAIR,
Attorney General.

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LABOR COMMISSIONER.—The authority of the, under the law governing the Bureau of Labor and Industrial Statistics, Chapter 113, C. L. 1897, is confined to the collecting of statistics relating only to the laborers employed in industries contemplated thereby.

November 25, 1903.

Scott Griswold, Commissioner of Labor, Lansing, Michigan.

Dear Sir—Your letter under date of November 3d received, in which you enclose blank prepared by you for the taking of the canvass of the brewing industry of this State.

You ask as to whether the questions contained in the enclosed blank come within the meaning of Chapter 113 of the Compiled Laws of 1897 relating to the Bureau of Labor and Industrial Statistics.

In answer thereto, would say that I am of the opinion that you are not entitled to all the information asked for. The questions contained in the blank relate more to the industry than to the laborer. As I read the act, your authority extends to the gathering of statistics relating to the industries only so far as they relate to matters touching the laborers employed in such industries, and your inquiries should therefore be limited to such matters.

Section 7 provides in part that "No person or corporation shall be required to answer any question that shall be improper subject of inquiry or foreign to the object of this act." Among other questions, No. 10 certainly comes within this proviso.

Respectfully yours,
CHAS. A. BLAIR,
Attorney General.

BANKING LAW.—Under Section 6144, C. L. 1897, the receiver of an insolvent bank is required to deposit with the State Treasurer all funds collected within a reasonable time after the funds are received.

December 2, 1903.

Hon. Daniel McCoy, State Treasurer, Lansing, Michigan.

Dear Sir—Yours of the 25th ultimo received, informing me that the Union Trust Company of Detroit is receiver for the City Savings Bank of Detroit; that in the past such receiver has deposited funds collected by it on the day on which a dividend is paid for the exact amount of such dividend, all other moneys remaining in its custody at all times. You desire to know whether or not, under Section 55 of Act 205 of the Laws of 1887, as amended, the same being the general banking law of the State of Michigan, and Section 6144 of the Compiled Laws of 1897, the receiver of an insolvent bank is required to deposit all funds collected at once or within a reasonable time after collecting and receiving the money.

Said Section 55 of Act 205 of the Laws of 1887, as amended, provides among other things that "such receiver shall pay over all money so collected or received, to the State Treasurer."

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The intent of the legislature is obvious that the primary purpose of said Section 55 is to protect depositors and other creditors, and that the legislature considered it a necessary safeguard to require the deposit of such funds in the State treasury. While the law does not specifically state the time when the receiver shall pay over the money collected to the State Treasurer, the reasonable construction to be placed upon the wording of the statute is that the receiver shall pay over the money to the State Treasurer within a reasonable time after collecting and receiving the same, and for the State Treasurer to require a receiver of an insolvent bank to pay over the money within a week from the time that he receives it would not be an unreasonable requirement.

Yours respectfully,
CHAS. A. BLAIR,
Attorney General.

STATE BOARD OF ASSESSORS.—The right of the, to furnish the Attorney General with authenticated copies of all the reports made to it by the railroad companies for the year 1903, is in no way affected by the provisions of Section 3846, C. L. 1897 (Section 23, General Tax Law.)

Jackson, Mich., Dec. 17, 1903.

State Board of Assessors, Lansing, Mich.

Gentlemen—I herewith submit my opinion in response to the following resolution:

"At a meeting of the State Board of Assessors, held at their office this 8th day of December, the following resolution was unanimously adopted:

"That the Attorney General be requested to furnish said board with an opinion as to its rights, in view of the provisions of Section 23 of the General Tax Law, to comply with his request of December 3d to furnish him with authenticated copies of all reports made by railroad companies to this board for the year 1903, and that in case the Attorney General shall advise that it is the right and duty of this board to furnish copies of said reports, that the secretary be and is hereby instructed to furnish them as requested."

Section 23 of the General Tax Laws referred to in your resolution provides as follows:

"Sec. 23. (3846.) All the statements herein required to be made and received by the supervisor or assessor shall be filed by him, and shall be presented to the board of review hereinafter provided for, or provided for in any act incorporating any town, village or city, for the use of said board, and after the assessment is reviewed and completed by such board of review all the statements shall be deposited in the office of the township or city clerk, as the case may be, and shall be preserved until after the next assessment is made and completed, after which they may be destroyed upon the order of the township board or city or village council, but no such statement shall be used for any other purpose except the making of an assessment for taxes

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as herein provided, or for enforcing the provisions of this act, and any officer or other person who shall make or allow to be made, wilfully or knowingly, any other or unlawful use of any such statement, shall be liable to the person making such statement for all damages resulting from such unlawful or unauthorized use of such statement."

It will be observed that the language "but no such statement shall be used for any other purpose except the making of an assessment for taxes as herein provided," etc., refers to "all the statements herein required to be made and received by the supervisor or assessor," manifestly referring to the statements under oath provided for in Section 18 preceding. There is no provision of Act 173 of the Session Laws of 1901 making any similar provision with reference to the reports required by that act to be made, and in the absence of any such provision, there is no question of the legal right of the State Board of Assessors to furnish the Attorney General with authenticated copies of such reports. The right of the Board of Assessors to furnish such reports is not affected in any degree by the provisions of Section 23 of the General Tax Law referred to.

Yours truly,
CHAS. A. BLAIR,
Attorney General.

BANKING LAW.—Under Section 6144, C. L. 1897, the depository of funds collected or paid over to receivers of insolvent banks, is the treasury of the State.

January 29, 1904.

Honorable Daniel McCoy, State Treasurer, Capitol, Lansing.

Dear Sir—Your letter of the 27th inst., enclosing copies of opinions of Bowen, Douglass, Whiting and Murfin, and Russell and Campbell, concerning the deposit of funds of the City Savings Bank, now in the hands of the Union Trust Company, with the State Treasurer, and requesting me to advise you whether, in my opinion, their position is well taken, is at hand. After due consideration of the opinions of the learned counsel above mentioned, I am still of the opinion that my previous advice to you, with reference to the construction of Section 55 of the General Banking Law, 1st Compiled Laws, Section 6144, was correct.

The construction placed upon this act, so far as it relates to the question in hand, by the attorneys for the Union Trust Company practically eliminates from the statute and nullifies a plain provision thereof, namely, "such receiver shall pay over all money so collected or received to the State Treasurer." It is an elementary rule in the construction of statutes that the courts will give effect to every word and provision of the statutes where it is reasonably possible so to do. There seems to me to be no difficulty in giving to this statute a construction which takes into account all of its provisions and follows, as I believe, the plain intent of the legislature. The fault, in my judgment, in the opinions which you enclose is in raising a conflict between the powers of the court and the State Treasurer over the fund in

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question, when, in my opinion, under the natural construction to be given to the act, no such conflict arises.

In the case of Savings Bank v. Circuit Judge, 98 Mich. 173, cited in the enclosed opinions, Mr. Justice Long, speaking for the Court, says, (see page 175):

"Section 55 of the act, in express terms, places the receiver under the direction of the court in the taking possession of the property and assets of the bank, the collection of claims, compounding of debts, sales of property, and the enforcement of the individual liability of stockholders. It is true that the statute fixes the depository of the fund, not with the register of the court, but with the State Treasurer, and the distribution is under the direction of the commissioner; but the receiver is nevertheless an officer of the court, as much as a receiver appointed in the ordinary way, under a bill in chancery. The Commissioner of Banking does not appoint the receiver. It is done by the court upon the petition of the commissioner, approved by the Attorney General; and when the funds are paid into the hands of the receiver, and deposited with the State Treasurer, the receiver, and not the commissioner, makes the ratable dividends."

It seems clear to me that it was the intention of this statute, as stated by Mr. Justice Long, on behalf of the Supreme Court, "that the statute fixes the depository of the fund" with the State Treasurer, the fund remaining in the hands of the State Treasurer, subject to the control of the court. This money is not deposited with the State Treasurer as State money, or as money subject to the control of the State Treasurer in the same way that other State funds are subject; but he is simply the depository of these funds, the same as a bank would be the depository of the funds if they were deposited in the bank, in the absence of the statute requiring them to be deposited with the State Treasurer.

Without having made any special investigation of the Journals of the Legislature, to ascertain what, if any, reasons were given for the insertion of the clause in question in the statute, it seems to me that the reason is not far to seek. The legislature was dealing with insolvent banks, and it would naturally occur to the legislators, in legislating with reference to insolvent banks, that if the receiver to be appointed should deposit the funds coming into his possession in another bank, as he naturally would, that that bank also might become insolvent and great delays be experienced in the settlement of the rights of parties; and they, therefore, deemed it wise to provide that the funds collected by the receiver should be deposited with the State Treasurer, where it would be reasonably certain that they would be forthcoming when needed.

This construction which I have placed upon this statute, and which seems to me to be manifestly the natural construction, leaves this fund under the full control of the court, and gives effect to every provision of the statute, without doing violence to any of its terms, and is in full accord with the view of the Supreme Court of the State, as expressed in the case above cited.

Yours very respectfully,

CHAS. A. BLAIR,
Attorney General.

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STATE TREASURER can not, even upon receipt of satisfactory bonds, make a trust company the depository of funds of an insolvent bank. Moneys deposited with him must remain in his custody until paid out under the order of the proper court, or in accordance with the requirements of the statute.

February 3, 1904.

Hon. Daniel McCoy, State Treasurer, Capitol, Lansing.

Dear Sir—I have your letter of the 1st inst., requesting my opinion as to whether you can make the Union Trust Company a depository bank, upon receipt of satisfactory bonds, and permit such company to retain the funds of the City Savings Bank, upon paying the interest which you exact from other banks.

In my judgment this question is covered by my opinion of December 29, 1903 *(evidently this date should read January 29, 1904)*, as well as by the opinion of my predecessor of January 30, 1901, (Attorney General's 1901 report, page 108).

If I have correctly construed the statute in my opinion above referred to, it necessarily follows, I think, that the moneys deposited with the treasurer must remain in his custody until paid out under the order of the proper court, or in accordance with the requirements of the statute.

Yours very respectfully,
CHAS. A. BLAIR,
Attorney General.

GENERAL TAX LAW.—Requisites of a complaint under Section 3844, C. L. 1897, as amended by Act 154 of the laws of 1899.

February 12, 1904.

Mr. E. J. Richmond, LL. B., Prosecuting Attorney, Manistee, Michigan.

Dear Sir—Yours of the 10th inst. received. I think you are correct, under the facts stated in your letter, that the case should be laid under Section 3844 of the Compiled Laws of 1897, as amended by Act No. 154 of the Laws of 1899. We have no precedent. I do not think that any case has ever been brought under this section, at least not to my knowledge.

I would suggest that there should be at least three counts in the complaint: First, charging a willful neglect to make out and deliver a true and correct, sworn statement, under oath, etc.; second, a willful refusal to make out and deliver a true and correct, sworn statement, under oath, etc.; third, that he gave false answers to questions concerning his property, etc.

If the facts will warrant a prosecution, I think it would be proper to enforce the penalties of the said section.

Yours respectfully,
CHAS. A. BLAIR,
Attorney General.

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OFFICE.—The board of supervisors, on the death of a sheriff during his term may hold a special election, or not, as they see fit; if not, and no appointment is made to fill the vacancy, the under sheriff may execute the duties of the office for the balance of the term. If the under sheriff is subsequently elected at a general election for a term of two years, the period served by him as under sheriff does not apply upon the constitutional term of four years. The death of a sheriff terminates the offices of his deputies, and the appointing of new deputies then devolves on the under sheriff.

Jackson, Mich., March 7, 1904.

Mr. Clayton H. Powell, Prosecuting Attorney, Hillsdale, Michigan.

Dear Sir—I submit herewith my opinion with reference to the questions proposed by you regarding the effect of the death of Sheriff Chestnut of your county. As I understand it, these questions are:

1st. Can the under sheriff execute the duties of the office of sheriff until the first day of January, 1905, or must the board of supervisors call a special election to fill the vacancy created by the sheriff's death, or in case such special election should not be called, must the vacancy be filled at the general election in November?

2d. In case the under sheriff should execute the duties of the office of sheriff until the first day of January, 1905, but should at the general election in November be elected sheriff for the term of two years beginning January 1, 1905, would the term served by him as under sheriff apply upon the four years to which his service is limited by the constitutional provision?

3d. Did the deputies appointed by Sheriff Chestnut in his lifetime cease to be such deputies upon his death?

4th. Has the under sheriff the power to appoint deputies?

The statutory provisions bearing upon the questions propounded, so far as I have been able to discover in the brief time permitted me for an examination of this subject are, as follows:

Constitution, Article 10, Section 5.—"The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any period of six years."

Section 2577, C. L. 1897.—"The sheriff of each organized county shall be elected at the general election, for the term of two years, and shall give bond to the people of this State in the penal sum of ten thousand dollars, and with such sufficient sureties, not less than three in number, as the judge of the circuit court, or the county judge shall approve."

Section 2579.—"Each sheriff may appoint one or more deputies, for whose official acts he shall be in all respects responsible, and may revoke such appointments at his pleasure."

Section 2581.—"Whenever a vacancy shall occur in the office of sheriff of any county, the under sheriff of such county shall, in all things, execute the office of sheriff, until a sheriff shall be elected and qualified."

Section 1155.—"Every office shall become vacant, on the happening of either of the following events, before the expiration of the term of such office: 1. The death of the incumbent. * * *"

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Section 3596.—"Special elections may be held in the following cases, and for the election of the following officers, viz: * * *

4. "When a vacancy shall occur in either of the said county offices after the commencement of the term of service, and more than six months before the next general election." * * *

The county offices referred to are those named in the preceding section of the statute and are the county offices filled at the general election held in November.

Section 3597.—"A vacancy in either of the offices named in the first section of this act, which shall not have been supplied before a general election, may be supplied at such election."

Section 3599.—"Special elections for the choice of the county officers named in Section 1 of this act shall, except in cases in which a special election is to be ordered by the governor, be ordered by the board of supervisors."

Section 2647.—"The regular terms of office of the several county officers elected at the general election shall commence on the first day of January succeeding their election, but those elected at the general election, or at a special election, to fill vacancies, may qualify and enter upon the execution of their offices immediately after being notified of their election."

Taking up these questions in their order in the light of the foregoing citations from the constitution and the statutes of the State, I submit my answers, as follows:

1st. In Secord v. Foutch, 44 Mich. 89, the Supreme Court held that Section 3597 of the Compiled Laws, providing that "a vacancy in either of the offices named in the first section of this act which shall not have been supplied before a general election may be supplied at such election" was permissive only, saying that "As to such matters the statutes concerning general elections are only permissive and declare that vacancies may be filled and not that they shall be." This ruling with reference to the filling of vacancies at general elections would, in my opinion, apply also to the filling of vacancies by special elections. It is therefore my opinion that the statutory provision with reference to the filling of the vacancy in the office of sheriff is permissive merely and that the board of supervisors may hold a special election or not, as they see fit, and that in the event that the board of supervisors should not call such special election and no appointment should be made to fill the vacancy, the under sheriff would be competent to execute the duties of the office until the first day of January, 1905.

2d. The only authority which I have been able to discover with reference to the under sheriff executing the duties of the office of sheriff and then receiving the nomination and election for the next four years in the case of State v. Linkhauer, 142 Ind. 94. The constitution of Indiana provides that "No person shall be eligible to the office more than four years in any period of six years." It contains, however, a further expressed provision that "in all cases in which it is provided that an office shall not be filled by the same person more than a certain number of years continuously an appointment pro tempore shall not be reckoned a part of that term." In giving its opinion, the court said: "In the absence of the provision that pro tempore appointees should not be affected by the general limitation, we should incline to the con-

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struction that the general limitation was upon the person and had no such reference to the tenure as to permit the computation against a pro tempore incumbent of the time his predecessor had occupied the office." I believe this construction to be the proper construction of our own constitutional provision and in my opinion the pro tempore service of the under sheriff would not count as part of the four year term limited by the constitutional provision.

3d. In Throop on Public Officers, Section 582, page 548, the author states the rule as follows: "A deputy's commission in the absence of any statutory provision to the contrary runs only while the principal's term lasts; if the principal is re-elected or reappointed, the deputy must be appointed anew, and when the office of sheriff devolves upon the under sheriff by the death, resignation or removal of the sheriff, a general deputy of the former sheriff can not continue to exercise his office without a new appointment from the under sheriff upon whom the office has devolved, which must be executed with the formalities required by law in the case of an original appointment and a new oath of office must be taken," citing in support of the text Boardman v. Halliday, 10 Paige (N. Y.) 223.

The answer therefore to this question is that the death of the sheriff terminated the office of the deputy.

4th. The case of Boardman v. Halliday, supra, is authority for the proposition that the under sheriff has the right to appoint his deputies, and this must be so upon general principles.

All of which is respectfully submitted.

Yours very truly,
CHAS. A. BLAIR,
Attorney General.

OFFICE.—Effect of a special election to fill a vacancy caused by the death of a sheriff, upon a full term, to which the same incumbent is regularly elected.

Jackson, Mich., March 8, 1904.

Clayton H. Powell, Hillsdale, Mich.

Dear Sir—With reference to the effect of a special election upon the term of office of the person elected to the office of sheriff at such election, after such examination as I have been able to give to the subject, my mind is left in a state of doubt as to the view which our Supreme Court will finally take when the subject comes before it.

The language of Article 10, Section 3 of the State Constitution is as follows:

"In each organized county there shall be a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, chosen by the electors thereof once in two years and as often as vacancies shall happen, whose duties and powers shall be prescribed by law."

The language of the 8th section of the fourth article of the Constitution of New York, which was considered by the Supreme Court of that state in the case of People v. Green, 2 Wendell 266, is:

"Sheriffs, etc., shall be chosen by the electors of the respective coun-

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ties once in every three years and as often as vacancies shall happen."

It will be observed that this provision of the New York statute is substantially the same as that of our own constitution and probably was the model from which the Michigan provision was framed.

In the case last cited, the Court held that a sheriff elected in September, 1826, to supply a vacancy occasioned by the death of his predecessor who took his office on January 21, 1826, held his office for three years, being the full term for the office, the view of the court being that the person elected to the vacancy was elected to fill the vacant office and not merely to serve out the vacant term of his predecessor.

The same question arises in Attorney General v. Brunst, 3 Wis. 689. The constitution of that state contained in Article 6, Section 4, a provision that "Sheriffs, coroners, registers of deeds and district attorneys shall be chosen by the electors of the respective counties once in every two years and as often as vacancies shall happen."

The court followed the decision in Gallup v. Green above cited, holding that that constitutional provision was evidently adopted from that contained in the New York constitution and therefore required the same construction. It was consequently held that in all cases in which a person was elected to the office of sheriff, whether at a general election or a special election to fill a vacancy, his term of office would be two years. The courts say:

"This rule of construction leaves the term of office to commence at different periods in the several counties accordingly as a vacancy may occur in the one or the other at different times and the people may be called upon to hold elections to fill such offices in several counties at different times and at times other than that for holding general elections. By our constitution this provision comprises not only the office of sheriff but that of coroner, district attorney and register of deeds, involving a degree of inconvenience which ought to give to the argument deduced therefrom, the utmost weight. But we can find no means of escape from the plain and palpable meaning of the language used, and the reasoning of Mr. Justice Marcy in the opinion delivered in the case just cited seems to be unanswerable."

Throop on Public Officers, Section 319, states the rules as follows:

"The authorities are not entirely harmonious respecting the duration of the term of an officer elected by the people or appointed by the governor or some other officer or a board of officers to fill a vacancy where the constitution or the statute has failed to specify the duration of his term or where a provision upon that subject is of doubtful construction. But the weight of the authorities is decidedly in favor of the proposition that a person so chosen holds for a full term and not merely for the unexpired portion of his predecessor's term."

See also Section 320 and case cited. See also 23 Ency. of Law, 2d edition, pages 418, 419.

Notwithstanding the authorities cited, I believe that if this proposition comes before the Supreme Court, it will be decided that where a vacancy has occurred after the qualification of a duly elected officer and after he has actually entered upon his term, that a person who shall be elected to fill the vacancy created by the death of the incumbent will hold his office for the balance of the term and not for the full term as in the case of an original election. The consequences of a contrary hold-

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ing pointed out by the Wisconsin Supreme Court but which were not felt to be weighty enough to affect its decision, I believe would lead our court in view of the policy mapped out by the legislature since the formation of the constitution of requiring these officers to be elected in November and to take their offices the following January, to hold that the provisions with reference to vacancies were intended to provide for the filling of unexpired terms. It is apparent, however, that grave legal questions are involved here and rather than take the chances of being required to hold a separate election for sheriff every two years, the part of prudence would seem to indicate that a special election should not be held.

Yours truly,
CHAS. A. BLAIR,
Attorney General.

INHERITANCE TAX LAW.—It is the duty of the Judge of Probate to fix and determine the amount of inheritance tax. Within three days after the tax is determined and the proper order is entered, the judge is required to make a certified copy of such order, deliverable to the county treasurer from which the county treasurer has to compute the interest accrued and to be paid. The judge of probate has nothing whatever to do with the interest and penalty fixed and prescribed by Section 4, except to determine when necessary litigation or other unavoidable delay exists which will entitle a beneficiary to have the rate of interest reduced to six per cent. The interest and penalties prescribed by the statute adds six or eight per cent as the case may be, to the tax as finally fixed and determined. If the judge of probate wishes to modify his judicial determination, the only means by which he can effect modification is to enter a supplemental order and make it a part of the original order of determination.

March 9, 1904.

Hon. Perry F. Powers, Auditor General, Capitol, Lansing.

Dear Sir—I have before me your communication of the 17th ult., in which you request my opinion on a matter pertaining to the inheritance tax law. The facts which you submit are, in substance, that a copy of an order of determination of inheritance tax was received at your office from a judge of probate, the amount of tax as indicated therein being $932.83; that duplicate receipts, which are required by the act, were received by you from the county treasurer, by which it appeared that the amount of the tax, without any interest, was paid two years, six months and eight days after the death of decedent. The county treasurer, upon being apprised that he should not have accepted the amount of tax without also collecting the accrued interest thereon and being asked for a supplemental receipt for $187.81, being interest at eight per cent for the elapsed time since the death of decedent, in accordance with Section 4 of the inheritance tax act, forwarded a supplemental receipt for $56.90, and stated in a letter that the executrix had filed an affidavit, certified to by the judge of probate, that the

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settlement of the estate had been delayed through litigation, and that interest at six per cent was collected for one year and six days only, instead of the rate and for the time as first above indicated. That you wrote to the judge of probate, stating that there was nothing on the copy of his order, as filed in your office which showed that a reduction of interest from eight to six per cent should be made. Upon being asked for a proper explanation, and for instructions to attach that explanation to the copy of the order as filed, the judge of probate refused to change or authorize any change in the order, and insisted that the only thing to do was to get a certified copy of the certificate as filed with the county treasurer. Under this state of facts, you ask what course you should pursue and what information or authority you must have on file in your office before countersigning and sealing receipts for the payment of tax and interest.

In reply thereto would say, it is the duty of the judge of probate to fix and determine the amount of inheritance tax upon the transfer of any property taxable under the inheritance tax act. The duty of computing the amount of interest thereon devolves upon the county treasurer, due to the fact that it is impossible to compute the amount of interest until the time of payment of the tax. According to Section 3 of the inheritance tax act, when the amount of tax is paid to the county treasurer, it becomes his duty to make out, upon forms prescribed by the Auditor General, receipts in duplicate and immediately send the same to the Auditor General, accompanying them with the amount received in funds by law receivable at the State treasury. Section 18 provides, in part, that "Every judge of probate shall, within three days after he shall have determined the tax and entered the order required in the preceding section, make a duly certified copy of such order upon forms furnished by the Auditor General, containing all the data and matter required to be entered in such books, one of which shall be immediately delivered to the county treasurer, from which data the county treasurer shall obtain the information for making the duplicate receipt required by this act, and the other transmitted to the Auditor General." Thus it will be seen that in computing the amount of interest which has accumulated, and which computation must be made in order to properly make out the receipts in duplicate, the county treasurer is required to make the computation from such data and material as are presented in the certified copy of the order of determination delivered to him by the judge of probate. The language of Section 18 limits the county treasurer to such certified copy as his field for deriving the necessary information and he would not be warranted in making out the receipts or computing the amount of interest accrued, under authority of any additional information, unless such addition were a supplemental order formally entered by the judge of probate and made a part of the original order of determination.

The question of whether or not a tax shall bear interest at a less rate than eight per cent and for a period of time less than that which has actually elapsed between the date of death of decedent and the date of payment of the tax, by reason of claims made upon the estate, necessary litigation or other unavoidable cause of delay, is a proper matter to be determined by the judge of probate, and if so determined, should appear upon the order, ample space being provided on the blanks,

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under "Remarks," for furnishing such information. It would be an unreasonable construction, in view of the language used, to say that an affidavit of an interested party, even though certified to by the judge of probate, clothes the county treasurer with authority to receive a less amount of interest than would be in accordance with the original order fixing and determining the tax. The judge of probate has nothing whatever to do with the interest and penalty fixed and prescribed by Section 4, except to determine when necessary litigation or other unavoidable delay exists, which will entitle the beneficiary to have the rate of interest reduced to six per cent. The interest and penalty is prescribed, as the statute automatically adds six or eight per cent, as the case may be, to the tax as finally fixed and determined. If a judge of probate wishes to modify his original determination, the only means by which he can effect a modification, is to enter a supplemental order and make it a part of the original order or determination. An affidavit of an interested party, even though certified to by the judge of probate, is not a supplemental order, and cannot be considered as a part of the original order or determination. If such supplemental order is entered, it is as necessary for the judge of probate to send a certified copy thereof to the Auditor General as to the county treasurer, thereby furnishing all parties interested with the necessary data to enable them to perform the duties prescribed by statute.

In conclusion would say, I believe you are warranted in refusing to accept or countersign receipts received, unless it appears that the interest which the tax should bear and the computations, were based upon the data and material presented and set forth in the certified copy of the order of determination of tax, which may include a supplemental order formally entered and made a part of the original order, delivered by the judge of probate to the county treasurer and to the Auditor General.

Very respectfully,
CHAS. A. BLAIR,
Attorney General.

RAILROAD LAW.—A complete and adequate remedy, in case of the refusal of a railroad company to carry freight in accordance with the provisions of Subdivision 7, Section 6234, C. L. 1897, may be found in Section 6235, C. L. 1897.

March 10, 1904.

Ira W. Riford, Esq., Prosecuting Attorney, Benton Harbor, Michigan.

Dear Sir—I have had under consideration the complaint of Charles Godfrey relative to the refusal of the Pere Marquette Railroad Company to carry freight in accordance with the provisions of Subdivision 7, Section 6234, of the Compiled Laws of 1897. From such investigation as I have been able to make, I am not satisfied that the State could maintain an action for the penalty mentioned in Section 6272 of the Compiled Laws, under the facts submitted, as it is extremely

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doubtful if this section is applicable thereto. It is my opinion that Mr. Godfrey has a complete and adequate remedy under Section 6235 of the Compiled Laws. This being true, I do not think the State should be called upon to move in the premises.

Respectfully yours,
CHAS. A. BLAIR,
Attorney General.

MICHIGAN SOLDIERS' HOME.—To entitle applicants to admission to the women's building of the, as widows of soldiers, sailors or marines, under Act 139 of the Public Acts of 1899, such applicants must not have remarried subsequent to the death of such soldier, sailor or marine.

March 16, 1904.

Mr. D. B. K. Van Raalte, Chairman pro tem., Board of Managers Michigan Soldiers' Home, Holland, Michigan.

Dear Sir—I am in receipt of your communication of the third instant, requesting my opinion upon the following questions relative to admissibility to the women's building of the Michigan Soldiers' Home.

1. "The applicant was married to her soldier husband prior to January 1, 1875. The husband has since died, and she has remarried and been divorced from this second husband, who was not a soldier. Is she eligible for admission to the women's building of this home as the widow of her first husband?"

2. "The applicant was married to a soldier who was killed at the battle of Franklin during the civil war. She has since remarried and the husband, who was not a soldier, has died. She is now a widow. Is she eligible for admission to the women's building of this home as the widow of her first husband?"

In reply would say that by Act 139 of the Public Acts of 1899 provision is made for the erection upon the grounds of the Michigan Soldiers' Home, of a dormitory building, cottage or cottages, for the care of widows, wives and mothers of honorably discharged soldiers, sailors, or marines who served in the Mexican war or the late civil war. Such widows or wives must have been married to such soldier, sailor or marine previous to the first day of January, 1875.

By Section 8 of the same act it is provided that the husband or son of the applicant must have served in a Michigan regiment, or have been accredited to the State of Michigan, or have been a resident of the State on the fifth day of June, 1884, and must have served in the army or navy of the United States during the Mexican or late civil war and have been honorably discharged therefrom.

Under the provisions of the statute the applicants for admission to the women's building of the home, to whom reference is made in the questions submitted, are, if otherwise qualified, entitled to admission therein if they are still deemed the widows of their first husbands. In Black's Law Dictionary, a widow is defined to be a woman whose husband is dead and who has not married again. Shumaker & Longdorf's Cyclopedic Law Dictionary, A woman whose husband is dead,

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and who has not remarried. Webster, A woman who has lost her husband by death, and has not married again; one living bereaved of a husband. Bouvier, An unmarried woman whose husband is dead. Century Dictionary, A woman who has lost her husband by death.

It is the general rule that the condition of widowhood is terminated by the widow's subsequent remarriage. (Amer. & Eng. Encyc. of Law, 1 ed., Vol. 29, p. 110; Com. v. Powell, 51 Pa. St. 440; Guardians of the Poor of Amersham Union v. Guardians of the Poor of the City of London Union, 20 Q. B. D. 103.)

In the case of Com. v. Powell, supra, a statute of Pennsylvania under consideration, exempted from the operation of the collateral inheritance tax laws, property "passing by will to, or in trust for, the wife or widow of a son of any person dying seized or possessed thereof." The devisee in that case, Elizabeth P. Powell, was formerly the wife of the decedent's son, William Lincoln, who died some years before the death of the decedent, and the said Elizabeth P. Powell, during the life time of the testatrix again intermarried with Elwood Powell. It was held that the said Elizabeth P. Powell was not entitled to the exemption as the widow of a son of the testatrix, the court saying: "When the property of Eliza Jordan passed by her will to Elizabeth P. Powell, the defandant, she was not the wife of the testatrix' son, for he was dead, nor his widow, for she was again married."

It is my opinion that to entitle applicants to admission to the women's building of the Michigan Soldiers' Home, as widows of soldiers, sailors or marines, under the statute in question, such applicants must not have remarried subsequent to the death of such soldier, sailor or marine.

You also inquire whether the right of such applicants to admission to the women's building of the home is affected by the recent change in the pension laws of the United States authorizing the Commissioner of Pensions to replace upon the pension rolls the name of a soldiers' widow, who, since her husband's death, has remarried, and who has lost her second husband, either by death or by divorce. (Act Feb. 28, 1903. U. S. Comp. Stat. 1901, Supp. 1903, p. 383.) In my opinion, however, this has no bearing upon the question. The conditions for admission to the women's building of the home are prescribed by the laws of this State, and although the federal government makes certain appropriations of money in aid of the Michigan Soldiers' Home, (Chap. 914, p. 617, Supp. to the Rev. Stat. of U. S. Vol. 1, 2ed), it does not assume to regulate or control the admission of applicants to the home or any of its departments.

With respect to the validity of the rules adopted by the Board of Managers, to which reference is made, I would say that inasmuch as the same is in harmony with the construction that I have placed upon the statute, it is unobjectionable.

Yours respectfully,

CHAS. A. BLAIR,

Attorney General.

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STATE BOARD OF ASSESSORS.—The statute is notice as to when and where the State Board of Assessors as a board of review will sit. No other notice need be given. The board has no legal authority to reopen a case and hold another session as a board of review for the purpose of reviewing its assessment roll.

March 17, 1904.

Hon. Henry C. Smith, Attorney-at-Law, Adrian, Michigan.

My Dear Mr. Smith.—Your letter of the 10th inst. was brought to my attention some days ago, but I have been unable to get the time to investigate the matter referred to, so as to write you intelligently upon the subject.

You state that the Pacific Express Company was given notice, last year, of the time and place, when and where it could be heard concerning its assesment before the State Board of Assessors, and that the company supposed it would receive similar notice in the future, but received no such notice this year. You ask whether there is any way, under the circumstances, in which the case can be reopened and a hearing had to afford the company an opportunity to make a showing against any increase in its assessment and taxation.

I regret very much that the company should have lost its opportunity to make its showing before the State Board of Assessors, sitting as a board of review, but can see no way to remedy the oversight. Of course, the statute itself is all the notice, under the law, which any of the corporations assessed is entitled to, and the sending of a notice to the effect that the review will be held is a mere act of courtesy on the part of the board. The board, in my opinion, would have no legal authority to reopen the case and hold another session as a board of review for the purpose of reviewing the assessment roll, and I think, upon examining the statute, you will agree with me in this conclusion. The attempt to review the assessment roll, in the case to which you refer, would be fraught with such dangerous consequences and establish such an unwise precedent, that, even if it were legally possible, I should hesitate long about advising the board to reconvene; but, as above indicated, I think there is no power on the part of the board to resume its sessions as a board of review.

Replying to your letter of the 14th inst. from Hot Springs, Arkansas, allow me to say that Messrs. Russel and Campbell, of Detroit, brought an action at law, on behalf of the American Express Company, as plaintiff, against the Auditor General and State Treasurer, as defendants, seeking to recover the moneys which the express company has paid to the Auditor General, under protest; and if your company paid its taxes under protest, as did the American Express Company, this case would stand as a test case. The case stands now under stipulation authorizing the defendants to plead or demur after the termination of the chancery suits in the federal court.

Regretting that I am unable to be of service to you in this matter, I am.

Yours very sincerely,

CHAS. A. BLAIR,

Attorney General.

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INHERITANCE TAX LAW.—The transfers of legacies to foreign corporations under, are taxable. The only corporations exempted from taxation are those which are "incorporated under the laws of the State," and the term "exempted" as used in our statutes does not extend to foreign corporations.

March 18, 1904.

Hon. Edwin A. Blakeslee, Galien, Michigan.

My Dear Sir—I have before me your communication of the 17th inst., in which you submit that you are interested, as executor, in a certain estate in which a bequest of $50 is given to a charitable institution located in the State of Iowa, designated "The Saints Home." That it is an institution erected and maintained by charity and is free from taxation in the state where it is located on the grounds that it is a charitable institution. You request my opinion as to the propriety of subjecting the transfer of the legacy to the institution in question to an inheritance tax.

In reply thereto would say, Section 1 of the inheritance tax act, (Act 188 of the Public Acts of 1899, as amended by Act 195 of the Public Acts of 1903), imposes a tax upon the transfer of any property, real or personal, passing to persons or corporations not exempt by law from taxation on real and personal property.

Clause 4 of Section 7 of the general tax law, (§ 3830, C. L. 1897), under the head of "Real estate exemption," provides for the exemption of "such real estate as shall be owned and occupied by library, benevolent, charitable, educational and scientific institutions incorporated under the laws of this State, with the buildings and other property thereon, while occupied by them solely for the purposes for which they were incorporated."

Clause 1 of Section 9 of the general tax law, (§ 3832, C. L. 1897), under head of "Personal property exemption," provides that the following property shall be exempt, "The personal property of benevolent, charitable, educational and scientific institutions, *incorporated under the laws of this State.*"

I believe it will not be disputed that The Saints Home, located in Iowa, is a foreign corporation, and I am informed through the office of the Secretary of State that such institution is not incorporated under the laws of the State of Michigan. It will be observed that under the above quoted language, the corporations exempted from taxation are those which are "incorporated under the laws of this State," and that the term "exempted," as used in our statute, does not extend to foreign corporations.

I believe it to be a general rule of construction that exemptions from taxation are not to be extended beyond their literal terms, and that nothing is to be taken against the State by intendment. The resulting conclusions would, therefore, be that a bequest to a foreign corporation, and one not incorporated under the laws of this State, would be subject to taxation under the inheritance tax law. The same view has been taken by the Court of Appeals of the State of New York in the following cases: Matter of Estate of Prime, 136 N. Y. 347; Matter of Estate of Balleis, 144 N. Y. 132.

I believe, therefore, that the inheritance tax act, in granting exemptions to corporations in certain cases, must, in the absence of plain

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indications to the contrary, be held to apply only to such corporations as are incorporated under the laws of this State and over which this State has control. This is the only reasonable and natural interpretation to be placed upon the language of the section in question, as applied to the facts which you submit. The sole and only question is, did the legislature intend to exempt corporations from the provisions of the inheritance tax act, when not incorporated under the laws of this State? I am clearly of the opinion that such question should be answered in the negative, and that the transfer of the legacy to the foreign corporation in question is taxable.

Very respectfully,

CHAS. A. BLAIR,
Attorney General.

OFFICES.—If no constitutional or statutory inhibition exists, a person may hold at same time two or more offices not incompatible, and draw the salaries of each. What are incompatible offices?

Jackson, Mich., April 9, 1904.

Hon. Perry F. Powers, Auditor General, Lansing, Michigan.

Dear Sir—In response to your communication of March 11th, requesting my opinion with reference to the payment of double salaries to State officers and employees, I herewith submit my opinion, as follows:

You say in your communication:

"It appears that there are a large and growing number of persons who are serving the State in more than one capacity and drawing more than one salary. Many of these persons are employed in a line of service which seems to call for their full time and yet, through vouchers which come to me for approval and payment, it is shown that they are also presumed to be rendering service elsewhere at the same time, for which they receive remuneration from the State treasury. Included in a list of more than sixty, which I have now in mind, and with which I have to do in an official way, all varieties of this dual demand upon the time of employees and doubles payments are included from the ordinary day laborer to the heads of State institutions. * * * Please inform me if, in your opinion, the payment of an annual salary or of monthly or weekly wages to an employee of the State in cases where no limit as to quantity of service is indicated or suggested, would constitute a bar against added allowance to such an employee on salary account for other or further services claimed to be rendered to the State."

In the absence of any statutory provision prohibiting the officer or employee from receiving any compensation other than the salary provided for the particular position, the answer to your question must depend upon the character of the services performed, that is, whether they are distinct and independent of the services for which the particular salary is provided by statute or are of the same character.

From such investigations as I have been able to make, I have been

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unable to find any provisions of our statutes relating to the subject in hand which prohibit, except in some special instances, officers or employees from performing distinct and independent services and receiving pay therefor.

Section 165, Chapter 19 of the Compiled Laws of 1897, which provides for the payment of the salaries of State officers and deputies, provides also:

"For such additional clerks in the Auditor General's office, State Land office, State Treasurer's office, office of the Secretary of State, the office of the State Board of Health, and the office of the Superintendent of Public Instruction, as may be necessary not exceeding at the rate of one thousand dollars each per annum for the time employed."

Section 166 provides that:

"There shall be made no further pay, compensation or allowance to any or either of the deputies or other employees named in Section 1 (being Section 165 just quoted) of this act than those therein provided, for any services rendered by them as such deputies or employees," etc.

It will be noticed that this section simply prohibits further pay or compensation for services rendered in the line of their duty under their particular office or employment and does not relate to any employment or any services distinct from and outside of such office or employment.

Under such conditions, Mr. Mechem in his work on Public Officers, Section 863, lays down the rule, as follows:

"Where, therefore, a public officer is employed to render services in an independent employment not germane or incidental to his official duties, as where the mayor of a city who is also an attorney-at-law is, without fraud or collusion, employed by the common council to defend a suit against the city; or, a police justice is employed to revise the city ordinances; or a receiver of public moneys is employed to assist in disposing of Indian lands; he may recover for such services."

In Vol. 23 Am. & Eng. Ency. of Law, page 392, the statement of the text is, as follows:

"And where the same person lawfully fills two offices separate and distinct and not incompatible, he may draw the salary or be paid the fees belonging to both."

These statements of law are abundantly sustained by authorities cited.

In State, ex rel., Tzschuck v. Weston, 4 Neb. 234, it was held that one holding the office of Secretary of State was eligible to that of Adjutant General and entitled to draw the salaries of both offices, notwithstanding a constitutional provision fixing the salary of the Secretary of State and providing that he shall not receive to his own use any fees, costs, perquisites of office or other compensation.

In State v. Walker, 97 Mo. 162, the Secretary of State was held to be entitled to the salary for services rendered as a member of the State Board of Equalization.

In U. S. v. Saunders, 120 U. S. 126, Saunders was held entitled to salary as clerk of the committee on commerce of the House of Representatives and a separate salary as clerk in the office of the president of the United States. The Court said in this case, among other things, referring to certain statutory provisions:

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"We are of the opinion that taking these sections together, the purpose of this legislation was to prevent a person holding an office or appointment for which the law provides a definite compensation by way of salary or otherwise which is intended to cover all the services which, as such officer, he may be called upon to render, from receiving extra compensation, additional allowance or pay for other services which may be required of him, either by acts of Congress or by order of the head of his department or in any other mode added to or connected with the regular duties of the place which he holds, but that they have no application to the case of two distinct offices, places or employments, each of which has its own duties and its own compensation, which offices may both be held by one person at the same time. In the latter case, he is, in the eye of the law, two officers or holds two places or appointments, the functions of which are separate and distinct, and according to all the decisions, he is in such case entitled to recover the two compensations. In the former case, he performs the added duties under his appointment to a single place and the statute has provided that he shall receive no additional compensation for that class of duties, unless it is so provided by special legislation."

In Cornell v. Irvine, 56 Neb. 657, Irvine held the office of Commissioner of the Supreme Court under a statute creating the office, describing the duties, and compensation therefor payable quarterly and only forbade the incumbent during his term from engaging in the practice of law. He also had a contract with the regents of the State university to deliver lectures before the senior law class at the agreed compensation of twenty dollars per lecture. Payment to Irvine in both capacities was refused by the Auditor of Public Accounts, his contention being that Irvine by accepting the office of Commissioner of the Supreme Court engaged to give all of his time during ordinary business hours to the duties of that office and that with this implied engagement, the delivery of lectures to students of the law college during ordinary business hours was incompatible, and that having received compensation as commissioner from the state for his entire time, he was not entitled to compensation from the same source for duties performed outside of his office as commissioner during the same time. The court says, among other things:

"The incumbent of an office of which the duration for a certain term of years and the salary are fixed by statute is not in any degree answerable to the Auditor of Public Accounts for the manner in which he discharges his official duties. If during his said term such incumbent, under proper authority, renders services not incompatible with the duties of the office of which he is an incumbent, it is no sufficient answer to his claim for such extra services for the Auditor of Public Accounts to urge that this claimant as such incumbent has already by the State been paid a salary for the quarter during which the extra services were rendered. The duties of a Commissioner of the Supreme Court, neither by common law or by the statutes are incompatible with the duties of a lecturer to a class in the college of law."

And it was consequently held that Irvine was entitled both to his salary as a Commissioner of the Supreme Court and as law lecturer.

In Mayor, etc., of Niles v. Muzzy, 33 M. 61, it was held that where one who was mayor and councilman has, without collusion or fraud

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been employed as an attorney to appear for the city and defend a suit brought against it, there is nothing in his official relations to the city which preclude his recovering the value of the services actually rendered under such employment.

In Erwin v. U. S. 37 Fed. Rep. 470, an item for necessary attendance in the District Court by the clerk of said court was disallowed by the controller because the same days were charged and allowed to him as a commissioner of the Circuit Court, he holding both offices. The courts say:

"A person who holds two distinct compatible offices may lawfully receive the salary or compensation of each."

U. S. v. Saunders, 120 U. S. 127;
U. S. v. Brindle, 110 U. S. 688;
Converse v. U. S. 21 Howard 463.

The idea of the accounting officers seems to be that the claimant having been paid a per diem for hearing and deciding as commissioner on a day certain that even though he was not occupied in that service but a portion of the day, that his time was purchased by the government for all purposes during that twenty-four hours. The same reasoning would have prevented Saunders from receiving two salaries for the same month, but the Supreme Court held that the offices were not incompatible and as he had performed the work of each, he was entitled to both salaries. The statute gives the clerk five dollars per day for his attendance on the court while actually in session. The court day may not last but ten minutes and yet the per diem for that court day will be fully earned at the expiration of that ten minutes.

Bill v. U. S., supra.
Goodrich v. U. S., 35 Fed. Rep. 193.

On the other hand the statute gives the commissioner five dollars per day for hearing and deciding on criminal charges for the time necessarily employed. The respective services, therefore, are entirely distinct and for the performance of each the statute prescribes a fee.

In U. S. v. King, 147 U. S. 676, the Court held as stated in paragraph 2 of the syllabus:

"The ordinary rule in the absence of legislation is that if the statute increases the duties of an officer by the addition of other duties germane to his office, he must perform them without extra compensation; but if he is employed to render services in an independent employment not incidental to his official duties, he may recover for such services."

In U. S. v. Erwin, 147 U. S. 685, it was held that as stated in the syllabus, that:

"A district attorney of the United States is entitled to a charge of per diem for services before a United States commissioner upon the same day that he is allowed a per diem for attendance upon the court, if his attendance before the court be necessary, he is entitled to his per diem although it may only be necessary to remain a few minutes; and if he attend before a United States commissioner and the case be disposed of without requiring his presence the entire day, he is also entitled to his fees before such commissioner."

In the case of People v. Miller, 24 M. 458, the Supreme Court of the State held that the official salary provided by law belongs to the office for which it is provided without regard generally to the amount of

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work done by the officer and it was held in Langley v. Hill, 63 M. 271, that unless the law requires a public officer to devote all of his time to the public service, he is not compelled to do so.

In Garlinger v. U. S., 30 Court of Claims 473, it was held that where an employee renders two distinct entire statutory days work, although within one day of twenty-four hours, he was entitled to compensation as for two days work.

Employees have also been held to be entitled to the per diem fee provided for each day on which they performed substantial official service, whether or not such service consumed the entire day.

Smith v. Jefferson County, 10 Colo. 17;
Ryninger v. Keating, 60 Md. 334;
See also Smith v. Waterbury, 54 Conn. 174;
State v. Harrison, 116 Ind. 300;
Love v. Baehr, 47 Cal. 364.

It results from the foregoing authorities that, in the absence of any constitutional or statutory prohibition and where the offices held are not incompatible, the same person may hold two or more different offices and receive compensation for each of them. It remains to be considered what constitutes incompatibility so as to prevent the same person from holding two or more different offices or employments. The rule for determining this appears to me to be well expressed in the case of People v. Green, 58 N. Y., page 295, see pages 304 and 305, as follows:

"Nor is the office of a member of assembly, in the legal sense of the word, incompatible with that of deputy clerk of the Court of Special Sessions of the city and county of New York. After the exhaustive opinions delivered in the court below upon this point, it would be an unwarrantable use of time to go over the grounds again, so well explored in them. It may be granted that it was physically impossible for the relator to be present in his seat in the assembly chamber in the performance of his duty as a member of that body and at the same time at his desk in the court, doing his duty as deputy clerk thereof. But it is clearly shown in these opinions that physical impossibility is not the incompatibility of the common law, which existing, one office is ipso facto vacated by accepting another. Incompatibility between two offices is an inconsistency between the functions of the two; as judge and clerk of the same court; officer who presents his personal account subject to audit, and officer whose duty it is to audit it. The case of Bryant (47 T. R. 715, 5 id. 509) cited by the appellant, does not conflict with this view. It was decided upon the meaning of the particular statute which required the personal presence of the officer at the prison. Where one office is not subordinate to the other nor of the relations of the one to the other such as are inconsistent and repugnant, there is not that incompatibility from which the law declares that the acceptance of the one is the vacation of the other. The force of the word in its application to this matter is that from the nature and relations to each other of the two places, they ought not to be held by the same person from the contrariety and antagonism which would result in the attempt by one person to faithfully and impartially discharge the duties of one toward the incumbent of the other. Thus, a man may not be landlord and tenant of the same premises. He may

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be landlord of one farm and tenant of another, although he may not at the same hour be able to do the duty of each relation. The offices must subordinate, one the other, and they must per se, have the right to interfere with the other before they are incompatible at common law."

In the case of Burr v. District of Columbia, 17th Court of Claim Reports, 383, the question of over-time arose. For several years, the claimant in that case had been a clerk in the auditor's office of the District of Columbia. His salary was fixed at twelve hundred dollars a year. At the time of his appointment, no agreement was made about the hours of daily service but by the custom of the office, the clerks were required to be in attendance from nine o'clock a. m. to four o'clock p. m. Within these hours, by the force then employed, the business of the office could be readily transacted, but subsequently, during a period of about nine months, beginning in September, 1873, and ending in June, 1874, the office business became so large that the clerks, including the claimant, were required to attend for a greater number of hours and were often compelled to work late at night and sometimes even on Sunday. Claimant put in a claim for over-time, estimating the value of his services over and above the seven hours a day for the whole nine months at two hundred and fifty dollars. The Court held that he was not entitled to any additional compensation, the duties pertaining strictly to the business of the office and no agreement having been made for an increase of pay, his remedy, being, if he was not satisfied, to resign his office. The rule, as stated by Mr. Dillon in his work on municipal corporations, Vol. 1, Sec. 233, is as follows:

"It is a well settled rule that a person accepting a public office with a fixed salary is bound to perform the duties of the office for the salary. He can not legally claim additional compensation for the discharge of those duties, even though the salary may be a very inadequate remuneration for the services. Nor does it alter the case that, by subsequent statutes or ordinances, his duties within the scope of the charter powers pertaining to the office are increased and not his salary. Whenever he considers the compensation inadequate, he is at liberty to resign."

The above citations, I think, will furnish you the rules from which you may determine in the specific instance which you have in mind or others which may come before you in the future, whether the particular official whose account you are to audit is legally entitled to have the same audited or not.

Yours very respectfully,

CHAS. A. BLAIR,
Attorney General.

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INSURANCE LAW.—One annual meeting by subordinate lodges or divisions of a fraternal beneficiary society organized under Act No. 119 of the Public Acts of 1893, as amended, is sufficient, unless the statutes of the State or the constitution or by-laws of the association provide otherwise. If, however, such an association is in fact exclusively engaged in the business of life insurance on the assessment plan, it is exceeding its corporate powers, and may be enjoined from carrying on such business, at the suit of the Attorney General, under Section 17 of said act.

April 19, 1904.

Hon. James V. Barry, Commissioner of Insurance, Capitol, Lansing, Michigan.

Dear Sir—I am in receipt of your communication of the 19th ultimo, asking my opinion as to whether the holding of but one meeting a year by subordinate lodges or divisions of a fraternal beneficiary society incorporated under Act No. 119 of the Public Acts of 1893 as amended, constitutes a compliance with the provisions of that act.

The act in question provides for the incorporation of fraternal beneficiary societies, orders or associations and the regulation of their business. In Section 1 a fraternal beneficiary association is declared to be a corporation, society or voluntary association, formed or organized and carried on for the sole benefit of its members and their beneficiaries and not for profit. There appears in the same section the following provision:

"Such association, having a lodge system, with ritualistic form of work and a representative form of government, and making provision for the payment of death benefits, may, in addition thereto provide for the payment of benefits in the case of accident, sickness, disability or old age of its members. The fund from which the payment of such benefits shall be made, and the fund from which the expense of such association shall be defrayed, shall be derived from assesments or dues collected from its members."

Section 11 of the act provides for the incorporation of subordinate bodies of any fraternal beneficiary society, order or association incorporated under the provisions of the act, but nothing is said with reference to the number of meetings such subordinate bodies are required to hold in any one year.

In the absence of a provision of this kind in the statutes, or in the constitution or by-laws of the association, it would probably be sufficient if meetings were held as often as necessary for the transaction of the business of the association and carrying out the purpose for which it is organized.

There may, however, be some question of the bona fides of an association conducting its business in this manner, in organizing under the provisions of this act. It may be that the association is in fact exclusively engaged in carrying on the business of life insurance upon the assessment plan for profit, and is attempting to evade compliance with the provisions of the statute regulating assessment insurance companies by organizing as a fraternal beneficiary society, adopting the lodge system and a ritualistic form of work and incorporating under the law relating to fraternal beneficiary societies. If such an asso-

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ciation is in fact exclusively engaged in carrying on the business of life insurance upon the assessment plan, it is exceeding its corporate powers, exercising franchises and privileges not conferred upon it by law, and may be enjoined from carrying on any business at the suit of the Attorney General under Section 17 of said act No. 119 of the Public Acts of 1893.

Yours respectfully,
CHAS. A. BLAIR,
Attorney General.

PUBLIC PARKS.—Under Act No. 171 of the Public Acts of 1899, the only land reserved for the purpose of a public park would be such portions of said lots as may be swamp or submerged lands lying between the shore line and the outer boundary, i. e., the center line of said lake, or the boundary of the State of Michigan.

April 19, 1904.

Hon. Edwin A. Wildey, Com'r State Land Office, Lansing, Michigan.

Dear Sir—Your letter of the 8th inst., received and contents noted, in which you state that application has been made by J. E. Sanborn to purchase lots 1, 2 and 3 of Sec. 2, T. 29 N., R. 8 E., which lots border on Lake Huron, in Alpena County.

In this connection you request my opinion as to whether or not said lots would be reserved for purposes of a public park, under and pursuant to the provisions of Act No. 171 of the Public Acts of 1899.

Replying thereto would say that in my opinion said Act No. 171 would only reserve such portions of said lots for the purposes of a public park as may be swamp or submerged lands lying between the shore line and the outer boundary, which, according to the terms of said act would be the center line of said lake or the boundary of the State of Michigan. All that portion of said lots lying above the shore line would be subject to sale.

Respectfully yours,
CHAS. A. BLAIR,
Attorney General.

CENSUS ENUMERATORS, COMPENSATION.—The compensation of census enumerators can not exceed $90 under any circumstances, except possibly for correction of errors for which they are not responsible. Secretary of State is without authority to appoint interpreters for the purpose of assisting enumerators. Latter should be capable of carrying on the entire work. Enumerators are not entitled to pay for attending school of instruction held prior to June 1, 1904. Salary of the chief enumerator should be paid by the treasurer of the county in which the city is located, in same manner and from same fund as are district enumerators of county.

April 26, 1904.

Hon. Fred M. Warner, Secretary of State, Capitol, Lansing, Michigan.

Dear Sir—I have before me your communication of the 11th inst., in

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which you request my opinion upon a number of questions arising in connection with the census act, being Act No. 240 of the Public Acts of 1901.

The questions which you submit are, in substance:

(1) "If the enumerator shall, for any reason excusable or inexcusable, fail to complete the enumeration on the date named, can he be paid for completing the work after that date?"

(2) "Section 6 provides that 'in the event of discrepancies or deficiencies being discovered in his said returns, he shall use all diligence in correcting or supplying the same.' Also, 'whenever it shall appear that any portion of the enumeration and census provided for in this act has been negligently or improperly done, and is by reason thereof incomplete and erroneous, the Secretary of State may cause such incomplete and unsatisfactory enumeration and census to be amended or made anew under such methods as may, in his discretion, be practicable.'"

"In case this is necessary, would the same terms govern as to the payment for work performed as in the original enumeration?" Also, "if an enumerator improperly does his work, and he is required by this office to correct same during the month of July, can said enumerator draw pay for time thus employed?"

(3) "If an enumerator works more than ten hours in any one day, can he draw pay for same at the rate of thirty cents per hour? The calendar shows that there will be twenty-seven working days in which enumerators are required to perform their work. If the enumerator works more than two hundred and seventy hours in the aggregate, can he draw pay for the excess over the stated ten hours per day?"

(4) "From what funds should payment be made to the chief enumerators, the appointment of whom is provided for in Section 7 of said act?"

(5) "The law is silent on the question of the appointment of interpreters. Do I have the power to appoint said interpreters? If so, from what funds are they to be paid? Does the fact that their work becomes an essential part of the enumeration make it right to provide for their payment in the same manner as for regular enumerators?"

(6) "It is exceedingly desirable solely from the standpoint of efficient work on the part of the enumerators, to hold one school of instruction in each county previous to the time that the regular field work is to begin. These schools of instruction will make necessary the payment of the enumerators each for one day previous to June 1, 1904. Can the payment for this day be charged to the counties, the same as payments for regular field work as provided for in Section 7?"

Replying to the questions in the order as above set forth, it is my opinion:

(1) That it was the evident intent of the legislature, as determined from the language used, to limit the enumerators to a period beginning with June 1, 1904, and ending on or before July 1, 1904, as the time during which they would be entitled to compensation for performing the duties prescribed by the statute which authorizes their appointment. In case of sickness or other unavoidable cause, or where it appears that the work will be delayed, provision is made for the appointment of another person in place of the enumerator who is unable to

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perform the duties as outlined in the act. However, bearing in mind the object to be accomplished, I believe a reasonable construction to place upon the language of the act is that, if through excusable delay or any unforseen circumstance, the enumerator is unable to complete the canvass during the time prescribed, and no other person has been appointed in that district, the work may be completed as speedily as possible and the enumerator would be entitled to compensation for such time subsequent to July 1st, as is actually necessary to complete the canvass. In such case, the enumerator would be entitled to receive compensation only for such time which, in addition to the time already employed, would equal the number of days for which he would be regularly entitled to compensation, under the provisions of the act. I may say, however, that while I consider the above a proper construction and one warranted by the language of the act, resort to this method should, if possible, be avoided, and where it appears that work is being delayed, or that the person appointed is unable to collect the statistics within the time prescribed, another enumerator should be appointed.

(2) The language quoted in the second question gives the Secretary of State authority to require incomplete and unsatisfactory reports to be amended or made anew, under such methods as may, in his discretion, be practicable. The act provides the compensation which the enumerators shall receive, which is in payment for duties properly performed. We may not assume that the legislature intended the enumerators to be compensated for time employed in correcting errors, due to their own fault or negligence. Any errors or deficiencies for which the enumerator is personally responsible must be corrected by him and he is not entitled to compensation for the time spent in making such corrections as the Secretary of State may require. It is possible that where an error is made through no fault of the enumerator, he might be entitled to receive compensation for the time necessarily spent in the performance of such duty. This is a matter with regard to which it is difficult to enunciate a rule applicable in all cases, and questions arising in connection with the language which you quote must be governed by the circumstances of each particular instance.

(3) Section 7 of the act in question provides, in part, that the enumerators shall receive as full compensation for services performed under the act, three dollars per day of ten hours. It was not intended to allow compensation for a longer period than ten hours in any one day, and if any time in excess of the number of hours for which the enumerators are entitled to compensation in any one day is employed in the performance of duties, the enumerator would not be entitled to any extra compensation therefor. This necessarily answers the second part of your question, as an enumerator is not entitled to compensation for any time over and above ten hours a day for the number of days actually engaged in the performance of this work.

(4) The salary of the chief census enumerator, the appointment of which is provided for in Section 7, should be paid by the treasurer of the county in which the city is located, in the same manner and from the same fund that district enumerators for such county are paid.

(5) Section 5 of the said act authorizes the Secretary of State to divide the State in such enumeration districts as he may deem most convenient for carrying out the provisions of this act, and shall appoint

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one or more enumerators for each district. There is no limit placed upon the number of enumerators which may be appointed. The fact that the Secretary of State may exercise discretionary authority in this matter, and the further fact that there is absolutely no provision, express or implied, in the act, for the employment or appointment of interpreters, leads me to believe that you are without authority to appoint interpreters for the purpose of assisting the enumerators, and that the employment of persons for this purpose would not be warranted by the language of the act. The Secretary of State having discretionary authority as to the number of census enumerators to be appointed, we may infer the legislature intended, that in the exercise of this authority, persons should be selected in those localities where an interpreter might be necessary, who are capable of carrying on the work without additional assistance. Although in certain districts of the State, an interpreter might be of invaluable assistance, the act makes no provision therefor, and I believe you are without authority to make such appointments.

(6) The act makes provision for the payment of enumerators during the time commencing June 1, 1904, and ending on or before July 1, 1904, during which time the enumeration shall be completed. While it will not be questioned that the plan of holding a school of instruction in each county, for the purpose of outlining the method of carrying on the work, is desirable, yet I believe it would be a strained construction and one not warranted by the language of the act, to hold that the enumerators should receive compensation for the day spent in receiving the necessary suggestions and instructions which will enable them to properly prosecute their work. The act does not authorize the payment of any sum of money to district enumerators until June 1, 1904. While it may be desirable, from the standpoint of your department that this plan should be carried out, it is equally desirable, and I may say essential to the enumerators, that these instructions be given. In answer to your first question, I have indicated that the errors inexcusable made by the enumerators must be corrected by them, and that they are not entitled to compensation for the time spent in making such corrections. In order that they may carry on the work without error, it is essential, not only for efficient service, but also for their own pecuniary benefit, that these instructions be received. The time employed in deriving the necessary knowledge and information to perform the work for which they are appointed, can not be said to be in the performance of duties. Being at most only preparatory to the beginning and carrying on of the duties required, I do not think the enumerators are entitled to compensation for the day spent in attending this so-called school of instruction.

Very respctfully,

CHAS. A. BLAIR,
Attorney General.

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INDETERMINATE SENTENCE LAW.—The effect of a definite sentence under the indeterminate sentence law, on a person convicted of the crime mentioned in Section 11693, Compiled Laws of 1897.

April 26, 1904.

Hon. Aaron T. Bliss, Governor, Capitol, Lansing, Michigan.

Dear Sir—Yours of the 7th instant enclosing communication from Mr. Otis Fuller, Warden of the Michigan Reformatory, raising the question of the effect of a definite sentence under the indeterminate sentence law, duly received.

It appears from the communication of Warden Fuller that on October 14, 1903, Duke Russell was sentenced to the Michigan Reformatory for a definite period of six months upon his conviction of the crime of indecent exposure of his person, the maximum term of imprisonment under the statute, Section 11,693 C. L., being one year. Russell was entered upon the books of the reformatory for an indeterminate sentence with a minimum of six months and a maximum of one year, and has now demanded of the warden his release from prison at the expiration of the six months sentence.

By Act No. 136 of the Public Acts of 1903, provision is made for the indeterminate sentence, and for the disposition, management and release of criminals under such sentence. Sections 1 and 2 of the act are as follows:

Section 1. "Every sentence to the State Prison at Jackson, to the Michigan Reformatory at Ionia, to the State House of Correction and Branch of the State Prison in the Upper Peninsula, and to the Detroit House of Correction, of any person hereafter convicted of a crime, except of a person sentenced for life, or a child under fifteen years of age, shall be an indeterminate sentence as hereinafter provided. The term of imprisonment of any person so convicted and sentenced shall not exceed the maximum term provided by law for the crime for which the prisoner was convicted and sentenced, and no prisoner shall be discharged until after he shall have served at least the minimum term as provided by law for the crime for which he was convicted: Provided, That in all cases where the maximum sentence, in the discretion of the court, may be for life or any number of years, the court imposing sentence shall fix the maximum sentence: Provided further, That in all cases where no minimum sentence is fixed by law, the court imposing sentence shall fix such minimum, which minimum shall not be less than six months."

Section 2. "If, through oversight or otherwise, any person shall be sentenced to imprisonment in the said State prisons for a definite period of time other than for life, said sentence shall not for that reason be void, but the prisoner so sentenced shall be entitled to the benefit and subject to the liabilities of this act, in the same manner and to the same extent, as if the sentence had been in the terms required in Section 1 of this act: Provided, That in these cases where no minimum sentence is fixed by the court, the minimum limit of any such sentence in any case shall not be for a less period than one year, except in those instances where the minimum limit is now fixed or which may hereafter be fixed or provided for by law."

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As I read Section 1 of the act, the court is not authorized to fix the maximum sentence except in those cases where the law provides that the punishment for the offense may, in the discretion of the court, be for life or any number of years, and is not authorized to fix the minimum sentence except where no minimum sentence is fixed by law. Every sentence under the act, save in the excepted cases, is in effect a sentence for the maximum term provided by law for the offense of which the person sentenced is convicted and he must serve the maximum term unless sooner released as provided by law. This was the construction placed upon Section 1 of the indeterminate sentence law of 1889 (Act 228, Laws of 1889) in People v. Cummings, 88 Mich. 249. Section 1 of that act was substantially like Section 1 of the present indeterminate sentence law, except that it provided that the sentence "may be, in the discretion of the court, a general sentence of imprisonment in that one of the prisons provided by law for the offense of which he is convicted." It was also provided that the imprisonment should not exceed the maximum term provided by law for the crime for which the prisoner was convicted and sentenced, and that no prisoner should be released until he had served at least the minimum term provided by law for the crime for which he was convicted. The court said that while the court imposing sentence had in the first place a discretion as to whether he would sentence under the act, yet if sentence was imposed under the act the court had no discretion in the matter of fixing the term of imprisonment, and that the general sentence without interference from other parties must stand for the length of time fixed by the maximum term.

In Section 1 of the present act it is not in terms stated how the sentence shall read, but it is provided that the sentence shall be "an indeterminate sentence," and then follows the provisions that "the term of imprisonment of any person so convicted and sentenced shall not exceed the maximum term provided by law for the crime for which the prisoner was convicted and sentenced, and no prisoner shall be discharged until after he shall have served at least the minimum term as provided by law for the crime for which he was convicted." It is not stated that the term of imprisonment shall not exceed the maximum term fixed by the court, but that it shall not exceed the maximum term provided by law. The instances in which the court is authorized to exercise a discretion in fixing the maximum and minimum sentence are enumerated in the statute, and in those instances only can that discretion be exercised.

As to the effect of a definite sentence under the act, Section 2 above quoted, makes a specific provision for cases of this kind. It is there provided that such sentence shall not be void, but the prisoner so sentenced shall be entitled to the benefit and subject to the liabilities of the act, in the same manner and to the same extent, as if the sentence had been in the terms required in section 1; the minimum sentence in such case not to be for a less period than one year where no minimum sentence is fixed by the court and the law prescribes none.

Under this provision of the act Russell is placed in the same position as he would have been if the sentence imposed upon him had been indeterminate in accordance with the provisions of Section 1. The maximum term provided by law for the crime for which he was convicted

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and sentenced is one year, but no minimum term is provided in the statute. If it cannot be said that the court has fixed the minimum sentence, under Section 2 of the act the minimum term must be one year, or the same as the maximum term. Under Section 4 of the act he would not be eligible to parole until the expiration of the minimum term for which he was sentenced, and as a result he would receive no benefit whatever from the provisions of the indeterminate sentence law. However, as the court had no authority under the act to fix the maximum sentence, the sentence of six months imposed upon Russell, should, I believe, be considered the minimum sentence fixed by the court. It follows that Russell was properly entered upon the books of the reformatory for an indeterminate sentence, with a minimum of six months and a maximum of one year.

Yours respectfully,
CHAS. A. BLAIR,
Attorney General.

CONSTITUTIONAL LAW, CORPORATIONS.—Act No. 130, Public Acts of 1903, authorizing the formation of corporations for the purpose of buying, selling, exchanging, improving and dealing in all kinds of real estate, is superseded by Act No. 232, Public Acts of 1903.

April 26, 1904.

Hon. Fred M. Warner, Secretary of State, Lansing, Michigan.

Dear Sir—Yours of the 19th, requesting my opinion upon the question of whether Act No. 130 of the Public Acts of 1903 is repealed by Act No. 232 of the Public Acts of 1903, duly received.

In reply I would say that Act 130 is entitled "An act to authorize the formation of corporations for the purpose of buying, selling, exchanging, improving and dealing in all kinds of real estate." It was approved May 20, 1903, but was not given immediate effect.

Act 232 is entitled "An act to revise and consolidate the laws providing for the incorporation of manufacturing and mercantile companies or any union of the two, and for the incorporation of companies for carrying on any other lawful business, except such as are precluded from organization under this act by its express provisions, and to prescribe the powers and fix the duties and liabilities of such corporations." It was approved June 18, 1903, and given immediate effect. Section 1 of this act provides that any three or more persons desiring to become incorporated for the purpose, among other things, of purchasing, holding and dealing in real estate, may, by complying with the provisions of the act, become a body politic and corporate. The act contains no provision expressly repealing Act No. 130, but Section 37 repeals all acts and parts of acts inconsistent with the provisions of said Act 232, and contains the further provision that "All corporations hereafter organized for any of the purposes provided for in this act shall incorporate under this act."

By these provisions the intention of the legislature that this act should supersede Act No. 130 is manifested, and it follows that com-

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panies desiring to incorporate for the purpose of purchasing, holding and dealing in real estate, should incorporate under the provisions of Act No. 232 of the Public Acts of 1903.

The fact that Act 130 was approved May 20, 1903, and would not become effective until September 18, 1903, while Act 232 was approved June 18, 1903, and given immediate effect, is not important. The act last passed, being the latest expression of the legislative will, must govern. (Casey v. Harned, 5 Iowa 1; Heilig v. City Council, 7 Wash. 29.)

Yours respectfully,
CHAS. A. BLAIR,
Attorney General.

MICHIGAN PIONEER AND HISTORICAL SOCIETY.—If the $100 provided for by Section 5 of Act No. 128, Public Acts of 1903, for the payment of expenses of members of the Michigan Pioneer and Historical Society at board meetings, is not used for that purpose, it may be used for other purposes of the society.

April 26, 1904.

Mr. C. M. Burton, Secretary State Pioneer and Historical Society, Detroit, Michigan.

Dear Sir—Your communication of the 11th instant, asking for an opinion as to whether the Michigan Pioneer and Historical Society may use for other purposes of the society, the one hundred dollars which the law provides for the expenses of members at board meetings, duly received.

In reply I would say that by Act No. 128 of the Public Acts of 1903 an appropriation of the sum of three thousand three hundred and seventy dollars for each of the fiscal years ending June 30, 1904, and June 30, 1905, is made from the general fund to the Michigan Pioneer and Historical Society, to be used, in the discretion of the executive committee of said society, in collecting, arranging and preserving a library of books, pamphlets, etc., illustrative of and relating to the history of Michigan. Section 5 of the act reads in part as follows:

"No part of the sums hereby appropriated shall be paid for the services rendered by its officers to the society while in the discharge of their official duties, and the amount expended in any one year for the expenses of members at board meetings shall not exceed one hundred dollars," etc.

It is evident from the terms of this section that it was not the intention of the legislature to make specific appropriation of one hundred dollars that could be used for no other purpose than the payment of expenses of members at board meetings, but merely to place a limitation upon the amount that may be used for that purpose from the appropriation made by the act. The society may or may not use the sum of one hundred dollars for the payment of expenses of members at board meet-

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ings, but it can not use more than that sum. If the money is not used for that purpose, it may, in my opinion, be used for other purposes of the society.

Yours respectfully,
CHAS. A. BLAIR,
Attorney General.

LAND GRANTS.—The land granted to the Borough of Michillimakinac (now the city of Mackinac Island), by act of Congress (6 U. S. Statutes, at L., Private Laws 1789-1845, inclusive, page 607), was not included within the subsequent grant of Mackinac Island as a State Park by the United States to the State of Michigan under the act of March 2, 1895. (28 Statutes, at L., 946.) The act of Congress authorizing the transfer of the park to the State did not include the fund created by the act on July 5, 1884, and made up of the proceeds of the military reservation lands sold on Bois Blanc Island. The State could undoubtedly maintain a civil action of trespass against a person unlawfully entering the Mackinac Island State Park, or the person offending might be prosecuted in the State courts under the provisions of Act 133 of the Public Acts of 1899.

June 8, 1904.

Hon. Peter White, President Mackinac Island State Park Commission, Marquette, Michigan.

Dear Sir—I am in receipt of your communication of May 27th, referring for my opinion certain matters relating to the Mackinac Island State Park.

A National park was established at Mackinac Island by an act of Congress on March 3, 1875, (18 Stat. at L., 517), entitled "An act to set apart a certain portion of the Island of Mackinac, in the Straits of Mackinac, as a National park," the first section of which reads as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That so much of the Island of Mackinac, lying in the Straits of Mackinac, within the County of Mackinac, in the State of Michigan, as is now held by the United States under military reservation or otherwise (excepting the Fort Mackinac and so much of the present reservation thereof as bounds it to the south of the village of Mackinac, and to the west, north and east respectively by lines drawn north and south, east and west at a distance from the present fort flag staff of four hundred yards, hereby is reserved and withdrawn from settlement, occupancy or sale under the laws of the United States, and dedicated and set apart as a National public park, or grounds, for health, comfort and pleasure, for the benefit and enjoyment of the people, etc."

By the act of March 2, 1895, (28 Stat. at L., 946) the transfer of the park to the State of Michigan was authorized, in the following terms:

"The Secretary of War is hereby authorized, on the application of the Governor of Michigan, to turn over to the State of Michigan for

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use as a State Park and for no other purpose, the military reservation and buildings and the lands of the National Park on Mackinac Island, Michigan: Provided, That whenever the State ceases to use the land for the purpose aforesaid, it shall revert to the United States."

Pursuant to the act of Congress, the Governor of this State was authorized by the legislature (Act 222, P. A. 1895), to make the necessary application to the Secretary of War, and it was provided that upon the turning over to the State of Michigan of the military reservation and buildings and the lands of the National park on Mackinac Island, the same should thereafter be known as the Mackinac Island State Park.

It appears that by an act of March 3, 1835 (6 U. S. Stat. at L., Private Laws 1789-1845, inclusive, p. 607), there was granted by Congress to the Borough of Michillimakinac, certain grounds for public purposes, the grant being in the following terms:

"Be it enacted, etc., That there be and there is hereby granted to the corporation of the Borough of Michillimakinac, for public purposes exclusively, a lot of ground containing by estimation eight acres, heretofore used as a common by the inhabitants of said Borough, lying between a lot of land the property of Doctor David Mitchell and another lot of land the property of the heirs of Ezekiel Solomon, deceased."

It is stated in the report of the committee of the Mackinac Island State Park Commission to whom the matter was referred for investigation, that in 1887 the village authorities executed a lease of the property covered by the grant, to the company building the Grand Hotel, for the nominal consideration of one dollar, and that the hotel company and its lessees now have possession of the property and are using the same for hotel purposes. The committee in its report finds that the Borough of Michillimakinac, and its successors, the village of Mackinac Island (now the city of Mackinac Island) has, by leasing the property to the hotel company, violated the conditions upon which the same was granted to the Borough of Michillimakinac by the act of March 3, 1835, by reason whereof the land so granted was forfeited to the United States, and that as the land was forfeited prior to the act of March 2, 1895, authorizing the transfer of the park to the State of Michigan, it was included within the terms of that act and now constitutes a part of the Mackinac Island State Park.

I am unable to concur in the conclusion reached by the committee. Assuming that the grant to the Borough of Michillimakinac was subject to forfeiture for violation of the conditions of the grant, there appears to have been no action taken by the United States, either legislative or judicial, to declare the grant forfeited for the misuser complained of. The act of March 3, 1835, was a grant in presenti, and by it the title to the tract was vested in the Borough of Michillimakinac, and although there had been in the act a provision for the forfeiture of the grant if the property should not be used for public purposes exclusively, until in some appropriate method the United States had asserted its right of forfeiture, the title would remain in the Borough of Michillimakinac. This is the rule applied by the courts with respect to grants of land made the State in aid of railroads where the language of the grant is similar to that used in the grant under consideration, (Lake Superior, etc., Co. v. Cunningham, 155 U. S. 354,

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372; United States v. Loughrey, 172 U. S. 206), and the rule would undoubtedly apply here.

Again, this tract of land certainly was not included within the terms of the act of March 3, 1875, establishing the National Park at Mackinac Island. That act grants for park purposes only so much of the Island of Mackinac as is held by the United States under military reservation or otherwise. By the act of Congress granting to the Borough of Michillimakinac the land in question, that land was appropriated to a particular purpose, and is not to be considered as within the scope of any subsequent grant by Congress, unless in terms made so. General terms in a subsequent grant are always held to not include lands embraced within the terms of a prior grant. (Lake Superior, etc., Co. v. Cunningham, supra.) There is no claim that this tract was forfeited to and held by the United States at the time the act of 1875 was passed. The act of March 2, 1895, authorizes the transfer of "the military reservation and buildings and the lands of the National Park on Mackinac Island, Michigan," and as the land in question formed no part of the National park, it can not be said that it is included within the terms of this act.

It follows that the land in question is not a part of the Mackinac Island State Park, over which the Mackinac Island State Park Commission is authorized to exercise jurisdiction and control.

With reference to the fund created by act of Congress from the proceeds of the military reservation lands sold on Bois Blanc Island, the committee in its report finds that Bois Blanc Island was withheld from market long before Michigan was admitted as a State, and a large part of the island was reserved to supply fuel for the garrison of Michillimakinac, the sections reserved containing 9,733.33 acres.

By act of Congress of July 5, 1884, (23 Stat. at L., p. 103, 104), entitled "An act to provide for the disposition of abandoned and useless military reservations," it was provided:

"That the proceeds of the military reservation lands sold on Bois Blanc Island near to Fort Mackinaw military reservation shall be set apart as a separate fund for the improvement of the National Park on the Island of Mackinaw, Michigan, under the direction of the Secretary of War."

It seems to be claimed that these lands were disposed of for other purposes, and the contention is now made that the State is entitled to demand of the Federal government the proceeds derived from the sale of these lands, or the value of the lands for use in the improvement of the Mackinac Island State Park.

The act of March 2, 1895, authorized the transfer to the State of Michigan of "the military reservation and buildings and the lands of the National Park on Mackinac Island, Michigan," only, and no mention was made of the fund created by the act of July 5, 1884, from the proceeds of military reservation lands sold on Bois Blanc Island. The terms of the act of Congress authorizing the transfer of the park to the State are not, in my opinion, sufficient to include the fund created by the act of July 5, 1884, and create no obligation on the part of the Federal government to transfer this fund to the State.

With reference to the prosecution in the State courts of trespassers upon the Mackinac Island State Park, I would say that undoubtedly

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those courts have jurisdiction in such cases. The effect of the transfer of the National Park to the State of Michigan was to vest the title thereto in the State, although the property was subject to reversion to the United States whenever the State ceased to use the same for a State park, and the State could undoubtedly maintain a civil action of trespass against a person unlawfully entering thereon. (United States v. Loughrey, 172 U. S. 206.) Or the person offending might be prosecuted in the State courts under the provisions of Act No. 133 of the Public Acts of 1899.

The papers enclosed with your letter are herewith returned: report, dated Dec. 31, '03, of C. R. Miller and John R. Bailey, Com.; letter of J. R. B. Jan. 31, '03, Peter White to J. R. B. Jan. 22, '04, letter of J. R. B. March 4, '04, with report of J. R. B. Feb. 23, '04, signed by C. R. M. and statement of C. R. M.

Yours respectfully,
CHAS. A. BLAIR,
Attorney General.

RAILROAD LAW. Courts are without power to require railroad companies to re-establish abandoned stations or establish new stations and stop their trains thereat unless such a duty has been imposed upon them by the Legislature or by contract. Commissioner of Railroads without authority to make an order requiring the Chicago & Northwestern Railroad Company to stop its passenger trains at Carbondale, Menominee County.

June 29, 1904.

Mr. D. Healy Clark, Deputy Commissioner of Railroads, Lansing, Mich.:

Dear Sir—I am in receipt of your communication of May 25th requesting an opinion as to whether a railroad company may be compelled to stop its passenger trains at places upon its line of road that have in the past been recognized as stopping places.

It is stated in your communication that a request has been received asking that your department require the Chicago & Northwestern Railroad Company to stop its passenger trains at a place called Carbondale, in Menominee County. An inspection of the premises has been made by a representative from your department, and from his report it appears that no depot was ever erected at this point, although it has been recognized as a flag station and passenger trains have in the past and until recently stopped there. A siding is maintained for the purpose of loading freight cars, the freight consisting principally of forest products. Four miles in either direction from Carbondale are stopping places for passenger trains. At one time there was a postoffice at this point, but it has been discontinued. Besides the house on the right of way occupied by the section foreman, there are two dwellings and a schoolhouse, which comprise all of the buildings in the vicinity, except two barns and another dwelling about a mile distant. The railroad company discontinued its

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passenger service there, claiming that the business did not warrant its continuance.

For answer to your inquiry I would say that the legislature may undoubtedly, by statute, compel a railroad company to establish stations and stop its trains at places upon its line of road necessary for the public convenience, and to erect the necessary buildings for the protection of passengers and freight, or may delegate this power to railroad commissioners, or other officers or boards. But in the absence of statute it is the general rule that the power and discretion to determine the location of stations and the places at which trains shall be stopped is lodged in the railroad company. (26 Amer. & Eng. Ency. of Law, 2 ed., pp. 497, 498; Northern Pacific R. R. Co. v. Dustin, 142 U. S. 492.) The same principle applies to the maintenance and continuance of established stations, and it is held that in the absence of statutory prohibition, a railroad company may change the location of established stations where the welfare of the company and its patrons requires that the change be made. (26 Amer. & Eng. Ency. of Law, 2 ed. p. 499, and cases cited.)

The only statute of this State that I have been able to find, conferring upon the railroad commissioner authority in the matter of requiring railroads to furnish facilities to accommodate the business of a particular locality, is section 5228 C. L. 1897, but the statute applies only to incorporated or unincorporated villages of a certain population and having a postoffice. As Carbondale has not the required population and a postoffice is no longer maintained at that point, the statute plainly is not applicable here, if indeed it would in any case be held to apply to the regulation of passenger train service.

The question of whether, in the absence of statute, the courts have power to compel the re-establishmnt of abandoned stations, or the establishment of new stations at points where they are demanded for the convenience of the public, and to require that trains be stopped at such stations, has been discussed in a number of cases; and although there are decisions to the contrary, the weight of authority supports the rule that the courts have no power, unless the duty has been imposed upon the railroad company by the legislature or by contract, to require the company to re-establish abandoned stations or establish new stations and stop its trains thereat. (Northern Pacific R. R. Co. v. Dustin, 142 U. S. 492; People v. N. Y. &c. R. R. 104 N. Y. 58; State v. Kansas City S. & G. Ry. Co., 51 La. Ann. 200; 25 So. 126.)

In Northern Pacific Railroad Company v. Dustin, it appeared that the railroad company refused to stop its trains at Yakima City at any time or for any purpose, although the place contained at the time of the trial a resident population of one hundred and fifty persons, and maintained a flouring mill, two hotels, twenty-seven dwelling houses, and both public and private schools, and had been, until injured by unjust discrimination after the advent of the railroad, three times as large and transacting a business of more than $200,000 per year. The only facilities provided for the receipt and discharge of either passengers or freight were at the town of North Yakima, four miles distant, a town which the railroad company had laid out upon its own land, and where it had established a freight and passenger station, and to and from which all traffic had to pass by private conveyance. Up to the time the railroad established

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the station at North Yakima it had stopped its trains and furnished facilities for the transportation of passengers and freight at Yakima City, although it had established no depot there. The supreme court of Washington Territory granted a writ of mandamus to compel the railroad company to construct a depot and stop its trains at Yakima City, but on appeal to the supreme court of the United States this decision was reversed, the court holding that mandamus to compel a railroad company to do a particular act in constructing its road or buildings, or in running its trains, will lie only where there is a specific duty on its part to do that act, and clear proof of a breach of that duty; and that no common law duty exists on the part of a railroad company to stop its trains at any particular point.

A special verdict in this case included express findings that there were other stations for receiving freight and passengers between North Yakima and Pasco Junction, which furnished sufficient facilities for the country south of North Yakima, which must include Yakima City; and that the passenger and freight traffic of the people living in the surrounding country, considering them as a community, would be better accommodated by a station at North Yakima than by one at Yakima City. And the court says: "But upon the facts found and admitted no sufficient case is made for a writ of mandamus, even if the court could, under any circumstances, issue such a writ for the purpose set forth in the petition."

The decisions of other courts upon this question are also reviewed, and that of the supreme court of Nebraska in State v. Republican Valley Railroad, 17 Nebraska, 647, holding that independently of any statute requirements, a railroad corporation may be compelled to establish a station and stop its trains at any point on the line of its road at which the court thought it reasonable it should, criticised as inconsistent with the decisions of the supreme court of the United States and of the court of appeals of New York in People v. New York &c. Railroad, 104 N. Y. 58.

In the case last cited, the court refused to grant a mandamus to compel a railroad corporation to construct and maintain a station and warehouse of sufficient capacity to accommodate passengers and freight at a village containing 1,200 inhabitants and furnishing a large freight and passenger business, although it was admitted that the present building at that place was entirely inadequate; that the absence of a suitable one was a matter of serious damage to a large number of persons doing business at that station; and that the railroad commissioners of the state, after notice to the company, had adjudged and recommended that it should construct a suitable building there within a certain time. The court, while recognizing that "a plainer case could hardly be presented of a deliberate and intentional disregard of the public interest and the accommodation of the public," yet held that it was powerless to interpose, because the railroad company, as a carrier, was under no obligation at common law, to provide warehouses for freight offered, or station houses for passengers waiting transportation, and no such duty was imposed by statute. The court said: "The grievance complained of is an obvious one, but the burden of removing it can be imposed upon the defendant only by legislation. The legislature created the corporation, upon the theory that its functions should be exercised for the

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public benefit. It may add other regulations to those now binding it, but the court can interfere only to enforce a duty declared by law."

In State v. Kansas City S. & G. Ry. Co., supra, these two cases are cited and approved by the supreme court of Louisiana.

We have also a statute (6347, 6348 C. L. 1897) prohibiting railroad companies from taking up their tracks, abandoning their stations and failing to operate their roads in certain cases, which provides in part that it shall be unlawful for any railroad company, organized under any law of this State, and whose road has been constructed wholly or in part by public aid or local subscription given as a bonus for such construction, having once constructed and put in operation the whole or any portion of its road, and located and opened for business, stations and houses thereon, to thereafter take up, abandon, or cease the operation of its track, or any portion thereof, or to close up and abandon its station and station houses, or to withdraw the agents therefrom, except upon the decree or order of the circuit court of the county or counties through which the road may run, and in which it is desired to take up and abandon such track, or to close up such station or stations and withdraw the agents therefrom, upon petition of the railroad company desiring to make such abandonment, etc. And it is provided that no order or decree granting the prayer of the petition shall be made except the railroad company pay back all moneys received by it as a bonus and interest thereon at the rate of six per cent from the time such bonus was granted, not to exceed five years.

The local subscriptions and public aid contemplated by this statute evidently have reference to aid in the form of a bonus furnish by individuals and private or public corporations, whether in the form of money or lands, and public aid in the shape of land grants from the State or general government would not be included. It does not appear from your communication whether public aid of this character, or local subscription, contributed to the construction of the railroad through Carbondale. Unless there were such local subscriptions or public aid from public corporations, I am of opinion that the commissioner of railroads has no authority to make the order requested, requiring the Chicago & Northwestern Railroad Company to stop its passenger trains at Carbondale, and do not believe that under the authorities cited and the facts presented, the courts would interfere to grant relief in the premises.

Yours respectfully,

CHAS. A. BLAIR,
Attorney General.

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SCHEDULE "M."

Abstract of the semi-annual reports of the prosecuting attorneys of official business of the various counties, for the fiscal year ending June 30, 1904.

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
A.							
Affray	1	.....	.....	.....	1	.....	.....
Abandonment	7	2	1	1	1	2	.....
Abduction	2	.....	1	.....	1	.....	.....
Abortion—administering drugs with intent to produce	1	.....	.....	1	.....	.....	.....
Accessory after the fact	19	5	1	1	6	2	4
Adultery	55	15	3	6	10	18	3
Animals—malicious killing	15	4	1	4	.....	2	4
Horse—abandoning	.....	.....	.....	.....	.....	.....	.....
Horse—disposing of, affected with glanders	.....	.....	.....	.....	.....	.....	.....
Cruelty to animals	152	89	27	12	11	8	5
Threatening and attempting to injure animals	6	2	.....	.....	3	1	.....
Annoyance—by writing, malicious	1	1	.....	.....	.....	.....	.....
Arson	14	6	3	.....	1	4	.....
Soliciting to commit arson	.....	.....	.....	.....	.....	.....	.....
Assault—simple	61	43	7	2	2	4	3
Assault—felonious	80	32	7	8	9	17	7
Assault and battery	2,952	2,038	406	290	92	49	82
B.							
Breaking street lamp	1	1					
Bail bond—skipping	1	1	.....	.....	.....	.....	.....
Bank—misapplying funds of	.....	.....	.....	.....	.....	.....	.....
Barber's law—violations of, classified as:							
(a) Doing business without license	1	.....	.....	.....	1	.....	.....
(b) Not closing shop on Sunday	6	3	1	.....	.....	.....	2
(c) Unclassified	13	2	6	.....	.....	.....	5
Bottles—buying registered	2	1	1	.....	.....	.....	.....
Bastardy	161	48	5	19	11	11	67
Bigamy	5	3	.....	.....	1	1	.....
Bill-board law—violation	.....	.....	.....	.....	.....	.....	.....
Boat—abandonment of, unlawfully	.....	.....	.....	.....	.....	.....	.....
Boat fastenings—breaking and removing	3	2	.....	.....	1	.....	.....
Breaking pound	.....	.....	.....	.....	.....	.....	.....
Breaking and entering—statutory	79	55	5	.....	2	17	.....
Breaking and entering buildings (other than dwelling-houses) in day time	2	2	.....	.....	.....	.....	.....
Breaking and entering buildings (other than dwelling-houses) in night time	43	26	6	.....	.....	9	2
Breaking and entering dwelling in day time	13	6	2	.....	3	2	.....
Breaking and entering dwelling in day time—attempted	.....	.....	.....	.....	.....	.....	.....
Breaking and entering dwelling in night time—intent—felony	14	9	.....	.....	1	4	.....
Breaking and entering railroad depot	1	1	.....	.....	.....	.....	.....
Bribery	5	1	4	.....	.....	.....	.....
Burglary—classified as:							
(a) Accessory after the fact	.....	.....	.....	.....	.....	.....	.....
(b) Attempt to commit	.....	.....	.....	.....	.....	.....	.....
(c) In bank	.....	.....	.....	.....	.....	.....	.....
(d) In store	.....	.....	.....	.....	.....	.....	.....
(e) Burglary and larceny	14	11	1	.....	1	1	.....
(f) Having burglarious tools in possession	8	6	.....	.....	2	.....	.....
(g) Unclassified	122	96	6	11	6	12	1
Bridge breaking	3	.....	.....	.....	.....	3	.....

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SCHEDULE M.—*Continued.*

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
C.							
Crime—falsely accusing of	2	2					
Chastity—imputing want of, to female	1				1		
Children:							
(a) Abandonment of							
(b) Cruelty to	6	3		1	2		
(c) Violation of child-labor law							
(d) Neglect of							
Cockfighting:							
(a) Aiding and abetting cockfighting	11	11					
Cohabitation:							
(a) Unlawful	1				1		
(b) Lewd and lascivious	31	17		3	4	6	1
Commission men and brokers—violation of law relative to							
Concealed weapons—carrying of	130	118	12				
Conspiracy							
Conspiracy to defraud							
Contempt of court	2	2					
Counterfeiting, etc.:							
(a) Printers' label	2				2		
(b) Passing counterfeit money							
Creditors—intent to defraud							
Crime—felony							
Crime—imputing to another	1		1				
Crime—soliciting to commit	1	1					
D.							
Danger signal—maliciously removing							
Dental law—violation of							
Disorderliness—classified as:							
(a) Begging							
(b) Drunkenness	5,516	5,409	20	34	32	9	12
Drunk in public place							
(c) Drunkenness—third offense	13	13					
(d) Drunkenness—fourth offense							
(e) Fortune telling	8	6			1		1
(f) Frequenting disreputable places	1	1					
(g) Gaming, etc., see "gaming, etc."	19	13			6		
(h) Lounging on railroad grounds							
(i) Non-support of family	547	259	68	84	20	12	104
(j) Non-support—threatening							
(k) Prostitution—see "prostitution, etc."	4	3			1		
(l) Vagrancy							
(m) Disorderliness—third offense							
(n) Unclassified	4,727	4,582	55	40	24	12	14
Dogfighting							
Disorderliness—juvenile—classified as:							
(a) Truancy	12	9				1	2
(b) Unclassified	236	207	11		6	2	10
Dynamite bomb—unlawful use of							
E.							
Election law—violation of	6					6	
Embezzlement	123	50	12	28	9	18	6
(a) Attorney—embezzlement of client's money							
(b) Embezzlement—including larceny by conversion	3	2		1			
(c) Embezzlement of leased property							
(d) Embezzlement of mortgaged property							

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SCHEDULE M.—*Continued.*

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
Entering—without breaking—in day time							
(a) Building—to commit crime							
(b) Dwelling—to commit crime							
(c) Garden—and carrying away vegetables							
Entering—without breaking—in night time:							
(a) Building—to commit crime	1	1					
(b) Dwelling—to commit crime							
Entering fair grounds—unlawfully							
Enticing female under sixteen years from home—for marriage							
Escape:							
(a) Aiding an	1	1					
(b) Aiding—from Industrial Home for Girls, Adrian							
Escaping							
Extortion							
Estray—animal							
F.							
Factory law—violation of							
(a) Operating stationery boiler without low water alarm	1		1				
False papers—uttering of							
False pretenses—classified as:							
(a) Obtaining goods by	5	2			2		1
(b) Obtaining money by	22	15	3		1	33	
(c) Unclassified	138	72	9	22	16	11	8
Fast driving							
Felony							
Fire arms—aiming, careless use of, etc	33	18	4	1	6	1	3
Forgery	79	56	4	2	6	10	1
Fraud	1		1				
Fraud in public office							
Fraud in public office—accessory to							
Fugative from justice	2			2			
G.							
Game and fish laws—violation of:							
(a) Deer—killing without a license							
(b) Deer hunting—pursuing and killing with dog							
(c) Deer killing—out of season	10	10					
(d) Deer in red-coat—having in possession							
(e) Deer in spotted coat—having in possession							
(f) Deer in spotted coat—capturing							
(g) Fish-spearing	4	3			1		
(h) Seining minnows							
(i) Brook trout—less than eight inches—having in possession	6	6					
(j) Fishing—illegal	45	35	4	11	5		
(k) Fishing in inland lake with net							
(l) Molesting fish nets							
(m) Moose—killing							
(n) Pheasant—Mongolian—killing							
(o) Quail—killing out of season							
(p) Quail—selling							
(q) Quail—training dogs on—out of season							
(r) Killing song birds	1		1				
(s) Killing woodpecker							
(t) Raccoon—killing out of season							
(u) Squirrel—killing out of season							
(v) Unclassified violations	164	132	8	2	13	6	3
(w) Shooting from launch							
(x) Killing game out of season							

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SCHEDULE M.—*Continued.*

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
Gaming	13	13	.....	.....	.....	.....	.....
Gaming—allowing	.....	.....	.....	.....	.....	.....	.....
Gaming—rooms—devices, etc., keeping	52	41	.....	2	4	1	4
H.							
Hawkers and peddlers law—violation of—classified as:							
(a) peddling without license	1	1	.....	.....	.....	.....	.....
(b) Unclassified	2	2	.....	.....	.....	.....	.....
Health law—violation of—classified as:							
(a) Carcass of animal—leaving unburied	.....	.....	.....	.....	.....	.....	.....
(b) Garbage—dumping of—on highway, etc	.....	.....	.....	.....	.....	.....	.....
(c) Physician—failure of to report contagious disease	1	1	.....	.....	.....	.....	.....
(d) Stream of water—polluting	.....	.....	.....	.....	.....	.....	.....
(e) Unclassified	8	5	1	.....	.....	2	.....
Highway—obstruction of	2	1	.....	.....	.....	1	.....
Hotels, boarding-houses, etc., law for protection of keepers of, violations of, classified as:							
(a) Defrauding hotel keeper, etc	77	55	2	15	1	.....	4
(b) Intent to defraud hotel keeper	.....	.....	.....	.....	.....	.....	.....
(c) Unclassified	9	8	.....	1	.....	.....	.....
Horse—unlawfully unhitching and driving away	16	11	2	1	1	.....	1
Horseshoer's law—violation of	.....	.....	.....	.....	.....	.....	.....
Horse—injuring	.....	.....	.....	.....	.....	.....	.....
Hunting—negligently shooting another while hunting	2	1	1	.....	.....	.....	.....
I.							
Illegal voting	.....	.....	.....	.....	.....	.....	.....
Incest	9	3	.....	.....	4	2	.....
Indecency—unclassified	3	3	.....	.....	.....	.....	.....
Indecent exposure of person	38	28	5	2	2	1	.....
Indecent language in presence of women and children	266	208	19	16	9	10	4
Indecent liberties with child	26	15	7	.....	2	2	.....
Indecent pictures—exposing of	2	1	1	.....	.....	.....	.....
Injury—by writing—malicious	.....	.....	.....	.....	.....	.....	.....
Insurance law—violation of	4	2	1	.....	.....	1	.....
J.							
Jail breaking	6	5	.....	.....	1	.....	.....
Jail—conveying tools into and assisting jail breaking	1	1	.....	.....	.....	.....	.....
K.							
Kidnapping	2	.....	.....	.....	.....	2	.....
L.							
Lottery—promoting	1	1	.....	.....	.....	.....	.....
Larceny—classified as follows:							
(a) From building—railroad car, etc	.....	.....	.....	.....	.....	.....	.....
(b) From building—store, etc., in day time	.....	.....	.....	.....	.....	.....	.....
(c) From dwelling	5	5	.....	.....	.....	.....	.....
(d) From dwelling—in day time	45	34	1	.....	6	4	.....
(e) From dwelling—in day time—attempt to commit	.....	.....	.....	.....	.....	.....	.....
(f) From dwelling—in night time	1	.....	1	.....	.....	.....	.....
(g) From dwelling—in night time—attempt to commit	3	2	1	.....	.....	.....	.....
(h) From the person	99	43	15	4	5	22	10
(i) From store or shop	17	15	.....	.....	1	1	.....
(j) From the person—attempt to commit	.....	.....	.....	.....	.....	.....	.....
(k) In a building, etc	3	2	.....	.....	1	.....	.....
(l) In a building—school house, etc., in day time	.....	.....	.....	.....	.....	.....	.....
(m) In a dwelling	2	2	.....	.....	.....	.....	.....

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SCHEDULE M.—*Continued.*

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
Larceny—*Continued:*							
(n) In dwelling—in day time	11	8	.....	.....	1	2	.....
(o) Of gas	1	1	.....	.....	.....	.....	.....
(p) Of horse	9	5	1	.....	1	2	.....
(q) Of railroad passenger tickets	.....	.....	.....	.....	.....	.....	.....
(r) Of timber	5	1	.....	1	2	.....	1
(s) Larceny and embezzlement	.....	.....	.....	.....	.....	.....	.....
(t) Larceny by conversion	18	6	6	6	.....	.....	.....
(u) Simple	1,848	1,515	146	82	33	38	34
(v) Grand	235	136	17	4	17	54	6
(w) Compound	.....	.....	.....	.....	.....	.....	.....
(x) Juvenile larceny—unclassified	33	31	1	.....	1	.....	.....
(y) Unclassified	897	638	65	40	80	58	16
Libel—criminal	.....	.....	.....	.....	.....	.....	.....
Liquor law—violation of, classified as:							
(a) Keeping saloon open after hours	56	33	3	4	8	6	2
(b) Keeping saloon open on election day	1	1	.....	.....	.....	.....	.....
(c) Keeping saloon open on legal holiday	81	74	.....	1	5	1	.....
(d) Keeping saloon open on Sunday	173	118	7	4	16	26	2
(e) Not filing bond	7	1	1	1	.....	4	.....
(f) Obstructing view of bar	36	11	5	.....	8	12	.....
(g) Furnishing liquor to intoxicated person	1	1	.....	.....	.....	.....	.....
(h) Furnishing liquor to drunkard	7	6	.....	.....	1	.....	.....
(i) Selling liquor without having paid license	58	31	.....	9	4	12	2
(j) Druggist making sale without making record	3	1	1	.....	1	.....	.....
(k) Druggist selling liquor as a beverage	1	1	.....	.....	.....	.....	.....
(l) Selling liquor on waters of lake Michigan	.....	.....	.....	.....	.....	.....	.....
(m) Selling liquor to Indian	.....	.....	.....	.....	.....	.....	.....
(n) Selling liquor after being forbidden	.....	.....	.....	.....	.....	.....	.....
(o) Unclassified	372	310	11	10	14	26	1
Local option law—violation of	63	35	5	.....	17	6	.....
Liquor law—furnishing liquor to prisoner in jail	1	1	.....	.....	.....	.....	.....
M.							
Manslaughter	13	10	1	.....	.....	1	1
Mayhem	2	.....	.....	.....	1	.....	1
Medical law—violation of, classified as:							
(a) Practicing medicine without certificate	2	1	.....	1	.....	.....	.....
(b) Unclassified	2	1	.....	1	.....	.....	.....
Milk—adulteration of	1	1	.....	.....	.....	.....	.....
Minors:							
(a) Allowing to remain in billiard room	2	1	.....	.....	.....	.....	1
(b) Allowing to remain in saloon	5	1	2	.....	2	.....	.....
(c) Allowing to remain in bowling alley	.....	.....	.....	.....	.....	.....	.....
(d) Druggist selling liquor to	.....	.....	.....	.....	.....	.....	.....
(e) Selling liquor to	20	10	3	.....	2	4	1
(f) Purchasing junk, clothing, etc., from	8	7	1	.....	.....	.....	.....
(g) Furnishing liqour to	12	9	.....	.....	3	.....	.....
(h) Purchasing stolen goods from	.....	.....	.....	.....	.....	.....	.....
(i) Selling fire arms to	.....	.....	.....	.....	.....	.....	.....
(j) Selling tobacco to	6	5	.....	1	.....	.....	.....
Misdemeanor	1	.....	.....	.....	.....	1	.....
Monument in cemetery—defacing	.....	.....	.....	.....	.....	.....	.....
Mortgage law—violation of	.....	.....	.....	.....	.....	.....	.....
Murder—classified as:							
(a) Assault with intent to murder	25	9	9	.....	1	6	.....
(b) Attempt to murder	.....	.....	.....	.....	.....	.....	.....
(c) First degree	3	2	1	.....	.....	.....	.....
(d) Second degree	.....	.....	.....	.....	.....	.....	.....
(e) Unclassified	36	17	12	.....	4	3	.....

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SCHEDULE M.—*Continued.*

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
N.							
Noxious weed law—violation of—classified as:							
(a) Allowing milk weed to go to seed	.....	.....	.....	.....	.....	.....	.....
(b) Allowing Canada thistle to grow	.....	.....	.....	.....	.....	.....	.....
(c) Unclassified	16	2	8	6	.....	.....	.....
Nuisance—maintaining	6	2	1	3	.....	.....	.....
Nuisance—unlawfully keeping slaughter house	.....	.....	.....	.....	.....	.....	.....
O.							
Officers—offenses against:							
(a) Assaulting an	1	.....	.....	.....	1	.....	.....
(b) Impersonating an	3	2	.....	.....	.....	1	.....
(c) Resisting an	40	12	4	1	9	14	.....
(d) Refusing to pay money over to an	.....	.....	.....	.....	.....	.....	.....
Oil inspection law—violation of	.....	.....	.....	.....	.....	.....	.....
Office—aiding and abetting fraud in	1	1	.....	.....	.....	.....	.....
Obstructing county—drain	1	.....	.....	.....	.....	.....	1
Office—malfeasance in	1	.....	1	.....	.....	.....	.....
Obscene letters	1	1	.....	.....	.....	.....	.....
Ordinance:							
(a) City—violation of	10	6	4	.....	.....	.....	.....
(b) Village—violation of	.....	.....	.....	.....	.....	.....	.....
P.							
Pardon—violation of conditions of	.....	.....	.....	.....	.....	.....	.....
Pauper—illegally transporting	.....	.....	.....	.....	.....	.....	.....
Peace—breach of—as follows:							
(a) Exciting disturbance, etc	79	72	3	3	.....	.....	1
(b) Surety to keep peace	38	27	5	1	4	1	.....
(c) Affray	6	5	.....	.....	.....	.....	1
Peddling without license	3	2	.....	1	.....	.....	.....
Prisoner—keeping civil with one charged with crime	.....	.....	.....	.....	.....	.....	.....
Perjury	25	10	5	2	1	5	2
Perjury—subornation of	2	.....	.....	.....	1	1	.....
Pharmacy law—violation of	2	1	.....	.....	.....	.....	1
Plumbing law—violation of	4	1	1	2	.....	.....	.....
Pound—releasing cattle from	1	1	.....	.....	.....	.....	.....
Poison—exposing of—with intent to kill	6	3	1	.....	.....	.....	2
Poisoning	2	.....	2	.....	.....	.....	.....
Poisoning animals	2	1	1	.....	.....	.....	.....
Poison—mingling with food	.....	.....	.....	.....	.....	.....	.....
Polygamy	3	2	.....	.....	.....	.....	1
Postal laws—violation of—unlawful possession of registered letters	.....	.....	.....	.....	.....	.....	.....
Printers' label—unlawfully displaying	.....	.....	.....	.....	.....	.....	.....
Prison—breach	2	2	.....	.....	.....	.....	.....
Produce—severing	2	2	.....	.....	.....	.....	.....
Profanity	1	1	.....	.....	.....	.....	.....
Property—offenses against—classified as:							
(a) Destroying	4	2	1	.....	.....	1	.....
(b) Destroying maliciously	52	26	11	4	5	.....	6
(c) Injuring	10	9	1	.....	.....	.....	.....
(d) Injuring maliciously	46	26	10	7	1	.....	2
(e) School property—malicious injury to	.....	.....	.....	.....	.....	.....	.....
Property—recovering stolen	.....	.....	.....	.....	.....	.....	.....
Poperty—receiving stolen	20	11	4	.....	3	2	.....
Property—chattel mortgaged:							
(a) Concealing	.....	.....	.....	.....	.....	.....	.....
(b) Disposing of	32	11	2	10	4	4	1
(c) Disposing of—fraudulently	3	.....	2	1	.....	.....	.....

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SCHEDULE M.—*Continued.*

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
Property—chattel mortgage—*Continued:*							
(d) Removing of	1	1	.....	.....	.....	.....	.....
(e) Removing of—fraudulently	.....	.....	.....	.....	.....	.....	.....
Property—contract—held on contract of sale:							
(a) Concealing of—fraudulently	5	3	.....	.....	.....	2	.....
(b) Disposing of—fraudulent	4	1	.....	1	1	.....	1
(c) Removing	5	3	.....	.....	.....	2	.....
(d) Removing—unlawfully	.....	.....	.....	.....	.....	.....	.....
Property—leased—disposing of	1	1	.....	.....	.....	.....	.....
Property—personal:							
(a) Destroying	5	2	.....	1	.....	2	.....
(b) Destroying maliciously	37	25	5	3	3	.....	1
(c) Disposing of—fraudulently	1	.....	.....	.....	.....	.....	1
(d) Injuring	12	10	.....	.....	1	1	.....
(e) Injuring maliciously	53	24	6	15	1	6	1
(f) Removing fraudulently	.....	.....	.....	.....	.....	.....	.....
Property—real:							
(a) Destroying maliciously	27	17	3	4	1	2	.....
(b) Injuring	1	1	.....	.....	.....	.....	.....
(c) Injuring dwelling or building	69	31	15	13	2	4	4
(d) Injuring maliciously	16	10	6	.....	.....	.....	.....
Property—stolen—receiving	60	40	7	3	3	7	.....
Property—stolen—concealing	2	1	.....	.....	.....	1	.....
Prosecuting—malicious	.....	.....	.....	.....	.....	.....	.....
Prostitution:							
(a) Keeping house of ill-fame—common prostitute, etc	455	412	19	10	8	.....	6
(b) permitting and receiving female into house of prostitute	.....	.....	.....	.....	.....	.....	.....
(c) Harboring child in disorderly house	2	1	.....	.....	.....	1	.....
(d) Soliciting to enter	5	2	.....	.....	.....	1	2
Public meeting:							
(a) Public meeting—disturbing	46	40	3	.....	3	.....	.....
(b) School meeting—disturbing	.....	.....	.....	.....	.....	.....	.....
Pure food law—taking milk from which cream has been removed, to be manufactured, with intent to defraud	1	1	.....	.....	.....	.....	.....
Public Records—destroying	1	.....	.....	.....	1	.....	.....
Public funds—misappropriating	1	1	.....	.....	.....	.....	.....
Pure food law—violation of—classified as:							
(a) Adulterating mustard	.....	.....	.....	.....	.....	.....	.....
(b) Illegally exposing for sale and selling oleomargarine	2	.....	.....	.....	2	.....	.....
(c) Selling adulterated food	30	26	1	.....	1	1	1
(d) Unclassified	.....	.....	.....	.....	.....	.....	.....
Public records—removing	1	1	.....	.....	.....	.....	.....
Q.							
Quarantine law—violation of	1	1	.....	.....	.....	.....	.....
R.							
Railroad law—violation of—unclassified	24	21	2	.....	1	.....	.....
(a) Altering mark on railroad ties	.....	.....	.....	.....	.....	.....	.....
(b) Boarding a moving train	205	201	2	.....	1	.....	1
(c) Entering a freight car to obtain carriage	59	59	.....	.....	.....	.....	.....
(d) Breaking and entering freight car	10	10	.....	.....	.....	.....	.....
Railroad:							
(a) Gates—interfering with	1	1	.....	.....	.....	.....	.....
(b) Attempt to wreck train	6	2	.....	1	1	2	.....
(c) Trains—jumping on—stealing ride on, etc	134	131	.....	1	.....	2	.....
(d) Trains—exciting disturbance on	1	1	.....	.....	.....	.....	.....

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SCHEDULE M.—*Continued.*

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
Railroad.—*Continued:*							
(e) Trains—throwing missiles at	3	1	.....	.....	.....	2	.....
(f) Entering railway car—unlawfully	10	6	.....	.....	.....	2	2
Rape	98	53	10	2	15	17	1
Rape—assault with intent to commit rape	42	15	5	1	5	14	2
Refusing citizens equal rights	.....	.....	.....	.....	.....	.....	.....
Religious meeting—disturbing	45	42	2	.....	1	.....	.....
Robbery—classified as:							
(a) From person	.....	.....	.....	.....	.....	.....	.....
(b) Highway robbery	.....	.....	.....	.....	.....	.....	.....
(c) Armed	5	2	.....	.....	2	.....	1
(d) Not armed	.....	.....	.....	.....	.....	.....	.....
(e) Unclassified	30	17	3	1	3	6	.....
(f) Assault with intent to rob	6	3	.....	.....	1	2	.....
S.							
Safe breaking	.....	.....	.....	.....	.....	.....	.....
Sanitary law—violation of	.....	.....	.....	.....	.....	.....	.....
School law—violation of—classified as:							
(a) By acting as agent for school book firm	.....	.....	.....	.....	.....	.....	.....
(b) Not sending children to school	28	17	2	3	1	2	3
(c) Unclassified	70	52	3	3	5	4	3
(d) Not furnishing text books to child	.....	.....	.....	.....	.....	.....	.....
Search warrant	20	.....	.....	.....	18	.....	2
Seduction	17	3	2	.....	5	5	2
Setting forest fires	1	.....	.....	.....	1	.....	.....
Slander—criminal	206	107	57	12	13	1	16
Snowballing	.....	.....	.....	.....	.....	.....	.....
Sodomy	7	4	.....	.....	1	2	.....
Street car—jumping on	.....	.....	.....	.....	.....	.....	.....
Street car—obstruction of	.....	.....	.....	.....	.....	.....	.....
Selling gasoline without label	3	.....	3	.....	.....	.....	.....
Subpoena—avoiding service of	1	.....	.....	.....	1	.....	.....
Sunday law—violation of—classified as:							
(a) Playing base ball on Sunday	.....	.....	.....	.....	.....	.....	.....
(b) Keeping place of business open on Sunday	11	5	4	1	.....	.....	1
(c) Unclassified	8	5	2	.....	.....	.....	1
T.							
Tapping electric light wires	.....	.....	.....	.....	.....	.....	.....
Tax law—violation of—classified as:							
(a) Making false statement as to taxable property	.....	.....	.....	.....	.....	.....	.....
(b) Refusing and neglecting to make statement as to taxable property	1	1	.....	.....	.....	.....	.....
(c) Unclassified	.....	.....	.....	.....	.....	.....	.....
Tippler	220	215	1	1	2	.....	1
Telephone line—obstructing	.....	.....	.....	.....	.....	.....	.....
Township officer—neglect of duty of	.....	.....	.....	.....	.....	.....	.....
Ties—driving	.....	.....	.....	.....	.....	.....	.....
Threats—malicious—to do bodily harm—extort money, etc	94	37	18	21	4	7	7
Trespass—classified as:							
(a) Cutting and removing timber	6	4	.....	.....	2	.....	.....
(b) Hunting on land without permission	7	5	.....	1	.....	.....	1

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SCHEDULE M.—*Concluded.*

Offense charged.	Number prosecuted.	Number convicted.	Number acquitted.	Number dismissed on payment of costs.	Number nolle prossed.	Number discharged on examination.	Number of escapes, settlements, etc.
Trespass.—*Continued:*							
(c) Willful trespass	11	9	.....	2	.....	.....	.....
(d) Unclassified	51	32	7	3	4	2	3
Truancy	247	216	6	2	9	3	11
U.							
Unlawfully transporting nitro-glycerine	.....	.....	.....	.....	.....	.....	.....
Union label law	.....	.....	.....	.....	.....	.....	.....
V.							
Vagrancy	1,740	1,686	34	1	13	4	2
Totals	25,375	20,954	1,426	940	750	779	536

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SCHEDULE N.

Recapitulation of the semi-annual reports of the Prosecuting Attorneys of the official business of their respective counties, during the fiscal year ending June 30, 1904.

Counties.	Number prosecuted.			Number convicted.			Number acquitted.			Number dismissed on payment of costs.			Number nolle prossed.			Number discharged on examination.			Number escaped, settled, etc.		
	First half.	Second half.	Total.	First half.	Second half.	Total.	First half.	Second half.	Total.	First half.	Second half.	Total.	First half.	Second half.	Total.	First half.	Second half.	Total.	First half.	Second half.	Total.
Alcona	22	12	34	19	10	29	3	1	4	.....	1	1	.....	.....	.....	.....	.....	.....	.....	.....	.....
Alger	26	35	61	23	32	55	3	.....	3	.....	.....	.....	.....	.....	.....	.....	3	3	.....	.....	.....
Allegan	171	113	284	150	107	257	4	.....	4	2	.....	2	15	5	20	.....	1	1	.....	.....	.....
Alpena	97	71	168	69	45	114	19	17	36	1	.....	1	5	2	7	3	7	10	.....	.....	.....
Antrim	32	31	63	31	31	62	.....	.....	.....	.....	.....	.....	1	.....	1	.....	.....	.....	.....	.....	.....
Arenac	18	16	34	14	15	29	2	.....	2	.....	.....	.....	1	1	2	1	.....	1	.....	.....	.....
Baraga	65	49	114	64	36	100	1	2	3	.....	.....	.....	.....	.....	.....	.....	11	11	.....	.....	.....
Barry	44	141	185	37	136	173	1	.....	1	.....	2	2	5	3	8	1	.....	1	.....	.....	.....
Bay	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Benzie	11	26	37	6	20	26	.....	2	2	.....	2	2	3	2	5	1	.....	1	1	.....	1
Berrien	138	99	237	101	67	168	2	5	7	12	7	19	19	20	39	4	.....	4	.....	.....	.....
Branch	103	38	141	83	28	111	2	5	7	2	2	4	11	2	13	5	1	6	.....	.....	.....
Calhoun	244	282	456	177	212	389	4	4	16	14	12	16	3	2	55	46	52	46	.....	.....	.....
Cass	167	90	257	144	84	228	3	3	6	6	.....	6	2	.....	2	8	.....	8	4	3	7
Charlevoix	27	18	45	25	15	40	.....	2	2	1	1	2	.....	.....	.....	.....	.....	.....	1	.....	1
Cheboygan	68	.....	68	51	.....	51	7	.....	7	.....	.....	.....	4	.....	4	2	.....	2	4	.....	4
Chippewa	117	89	206	99	72	171	7	10	17	5	.....	5	4	5	9	2	2	4	.....	.....	.....
Clare	19	24	43	13	17	30	2	.....	2	2	3	5	.....	3	3	.....	1	1	2	.....	2
Clinton	73	39	112	70	39	109	.....	.....	.....	1	.....	1	.....	.....	.....	.....	.....	.....	2	.....	2
Crawford	50	34	84	41	26	67	5	4	9	.....	2	2	2	.....	2	2	2	4	.....	.....	.....
Delta	21	27	48	16	22	38	2	4	6	.....	1	1	2	.....	2	1	.....	1	.....	.....	.....
Dickinson	158	227	385	153	212	365	2	6	8	.....	.....	.....	1	9	10	2	.....	2	.....	.....	.....
Eaton	169	245	414	160	242	402	3	.....	3	.....	.....	.....	3	1	4	.....	.....	.....	3	2	5
Emmet	64	46	110	58	39	97	3	4	7	.....	1	1	3	1	4	.....	.....	.....	.....	1	1
Genesee	183	223	406	142	169	311	1	.....	1	4	8	12	21	.....	21	14	40	54	1	6	7
Gladwin	4	20	24	2	7	9	1	2	3	.....	.....	.....	1	5	6	.....	1	1	.....	5	5
Gogebic	125	179	304	87	155	242	18	12	30	.....	4	4	.....	.....	.....	10	8	10	10	.....	10
Gd. Traverse	29	26	55	20	15	35	3	5	8	4	3	7	1	.....	1	1	3	4	.....	.....	.....
Gratiot	133	102	235	97	73	170	3	4	7	15	5	20	11	15	26	6	5	11	1	.....	1
Hillsdale	69	35	104	59	28	87	1	1	2	.....	5	5	.....	.....	.....	.....	1	1	9	.....	9
Houghton	381	346	727	315	286	601	23	15	38	18	21	39	12	12	24	8	3	11	5	9	14
Huron	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ingham	283	397	680	250	380	630	9	5	14	6	1	7	14	8	22	3	.....	3	1	3	4

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SCHEDULE N.—*Concluded.*

Counties.	Number prosecuted.			Number convicted.			Number acquitted.			Number dismissed on payment of costs.			Number nolle prossed.			Number discharged on examination.			Number escaped, settled, &c.		
	First half.	Second half.	Total.	First half.	Second half.	Total.	First half.	Second half.	Total.	First half.	Second half.	Total.	First half.	Second half.	Total.	First half.	Second half.	Total.	First half.	Second half.	Total.
Ionia	157	90	247	77	64	141	15	5	20	.....	2	2	22	8	30	25	3	28	18	8	26
Iosco	19	24	43	13	18	31	3	.....	3	.....	.....	.....	.....	.....	.....	3	1	4	.....	5	5
Iron	110	94	204	105	93	198	4	1	5	.....	.....	.....	1	.....	1	.....	.....	.....	.....	.....	.....
Isabella	108	84	192	87	59	146	3	2	5	4	6	10	8	2	10	3	11	14	3	4	7
Jackson	539	441	980	452	363	815	10	7	17	40	50	90	5	2	7	27	16	43	5	3	8
Kalamazoo	478	639	1,117	437	618	1,055	6	3	9	13	5	18	18	12	30	.....	.....	.....	4	1	5
Kalkaska	21	7	28	20	6	26	1	.....	1	.....	.....	.....	.....	1	1	.....	.....	.....	.....	.....	.....
Kent	313	324	637	269	282	551	15	21	36	3	6	9	12	11	23	8	4	12	6	.....	6
Keweenaw	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lake	15	16	31	8	9	17	3	2	5	2	1	3	2	1	3	.....	1	1	.....	2	2
Lapeer	144	81	225	123	77	200	3	2	5	1	.....	1	15	.....	15	.....	1	1	2	1	3
Leelanau	8	12	20	8	9	17	.....	1	1	.....	.....	.....	.....	.....	.....	.....	2	2	.....	.....	.....
Lenawee	163	125	288	147	109	256	4	3	7	.....	3	3	8	9	17	4	1	5	.....	.....	.....
Livingston	64	72	136	55	67	122	2	2	4	4	3	7	1	.....	1	2	.....	2	.....	.....	.....
Luce	5	17	22	3	16	19	1	.....	1	.....	.....	.....	1	.....	1	.....	1	1	.....	.....	.....
Mackinac	38	17	55	33	15	48	4	1	5	1	1	2	.....	.....	.....	.....	.....	.....	.....	.....	.....
Macomb	149	164	313	141	155	296	5	2	7	2	3	5	1	1	2	.....	3	3	.....	.....	.....
Manistee	132	119	251	112	103	215	1	1	2	6	6	12	12	.....	12	1	9	10	.....	.....	.....
Marquette	193	234	427	181	199	380	4	5	9	.....	20	20	2	2	4	2	8	10	4	.....	4
Mason	81	.....	81	72	.....	72	1	.....	1	4	.....	4	1	.....	1	2	.....	2	1	.....	1
Mecosta	33	21	54	28	20	48	1	.....	1	.....	.....	.....	1	1	2	2	.....	2	1	.....	1
Menominee	253	376	629	178	317	495	50	12	62	.....	2	2	1	44	45	24	1	.....	.....	.....	.....
Midland	24	20	44	16	13	29	1	2	3	4	.....	4	2	4	6	.....	1	25	.....	.....	.....
Missaukee	7	17	24	5	11	16	1	4	5	.....	2	2	1	.....	1	.....	.....	1	1	.....	1
Monroe	63	51	114	62	51	113	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	1	.....	.....	.....
Montcalm	125	55	180	66	37	103	8	4	12	10	2	12	11	5	16	28	7	35	2	.....	2
Montmorency	7	.....	7	3	.....	3	2	.....	2	.....	.....	.....	2	.....	2	.....	.....	.....	.....	.....	.....
Muskegon	208	222	430	160	197	357	9	9	18	13	7	20	7	6	13	2	3	5	17	.....	17
Newaygo	10	8	18	7	4	11	1	1	2	1	3	4	.....	.....	.....	1	.....	1	.....	.....	.....
Oakland	221	122	442	190	195	385	1	2	3	20	13	33	2	6	8	8	5	13	.....	.....	.....
Oceana	18	7	25	14	6	20	2	1	3	.....	.....	.....	2	.....	2	.....	.....	.....	.....	.....	.....
Ogemaw	16	19	35	13	14	27	2	5	7	1	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....
Ontonagon	2	.....	.....	1	.....	.....	1	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....

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Osceola	46	49	95	35	44	79	5	2	7	1	.....	1	3	2	5	1	1	2	1	.....	1
Oscoda	3	4	7	1	4	5	1	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	.....	1
Otsego	66	93	159	53	77	130	2	12	14	2	.....	2	5	2	7	4	2	6	.....	.....	.....
Ottawa	331	358	689	316	335	651	2	6	8	7	2	9	2	3	5	.....	8	8	4	4	8
Presque Isle	25	.....	.....	11	.....	.....	8	.....	8	2	.....	2	1	.....	1	2	.....	2	1	.....	1
Roscommon	13	21	34	11	19	30	.....	1	1	.....	.....	.....	2	.....	2	.....	1	1	.....	.....	.....
Saginaw	297	348	645	185	269	454	11	16	27	36	32	68	29	14	43	12	11	23	24	6	30
St. Clair	433	315	748	360	278	638	32	13	45	2	.....	2	32	24	56	4	.....	4	3	.....	3
St. Joseph	82	77	159	62	66	128	4	.....	4	6	5	11	6	.....	6	3	5	8	1	1	2
Sanilac	16	17	33	14	11	25	1	1	2	.....	.....	.....	1	3	4	.....	1	1	.....	1	1
Schoolcraft	13	9	22	7	7	14	2	.....	2	2	1	3	1	.....	1	.....	1	1	1	.....	1
Shiawassee	404	324	728	394	320	714	8	1	9	1	.....	1	.....	.....	.....	.....	3	3	1	.....	1
Tuscola	48	62	110	46	49	95	.....	3	3	1	5	6	.....	.....	.....	.....	.....	.....	1	5	6
VanBuren	120	129	249	89	96	185	4	10	14	1	2	3	16	17	33	5	4	9	5	.....	5
Washtenaw	415	720	1,135	377	702	1,079	.....	.....	.....	12	5	17	19	10	29	6	3	9	1	.....	1
Wayne	3,558	3,402	6,960	2,757	2,485	5,242	401	366	767	273	107	380	29	61	90	76	105	181	22	278	300
Wexford	45	39	84	36	29	65	3	1	4	.....	*7	7	3	1	4	.....	.....	.....	3	1	4
Totals	12,750	12,625	25,375	10,416	10,538	20,954	782	644	1,426	558	382	940	431	348	779	376	374	750	177	349	526

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SCHEDULE O.

List of Prosecuting Attorneys, by Counties, with name of County Seat and address of prosecutor.

Counties.	County seat.	Prosecuting attorneys.	Postoffice.
Alcona	Harrisville	John H. Killmaster	Harrisville.
Alger	Munising	Henry B. Freeman	Munising.
Allegan	Allegan	Orien S. Cross	Allegan.
Alpena	Alpena	Joseph Cavanagh	Alpena.
Antrim	Bellaire	Fitch R. Williams	Elk Rapids.
Arenac	Standish	William C. Cook	Omer.
Baraga	L'Anse	Wm. L. Mason	L'Anse.
Barry	Hastings	Fred W. Walker	Hastings.
Bay	Bay City	Edward E. Anneke	Bay City.
Benzie	Frankfort	M. E. Louisell	Thompsonville.
Berrien	St. Joseph	Ira W. Riford	Benton Harbor.
Branch	Coldwater	Charles N. Legg	Coldwater.
Calhoun	Marshall	Joseph L. Hooper	Battle Creek.
Cass	Cassopolis	George M. Fields	Dowagiac.
Charlevoix	Charlevoix	Alfred B. Nicholas	East Jordan.
Cheboygan	Cheboygan	Homer H. Quay	Cheboygan.
Chippewa	St. Ste. Marie	John P. Conrick	St. Ste. Marie.
Clare	Harrison	George J. Cummings	Harrison.
Clinton	St. Johns	William M. Smith	St. Johns.
Crawford	Grayling	Oscar Palmer	Grayling.
Delta	Escanaba	John Cummiskey	Escanaba.
Dickinson	Iron Mountain	August C. Cook	Iron Mountain.
Eaton	Charlotte	Lewis J. Dann	Charlotte.
Emmet	Petoskey	Wade B. Smith	Harbor Springs.
Genesee	Flint	George W. Cook	Flint.
Gladwin	Gladwin	Frank L. Prindle	Gladwin.
Gogebic	Bessemer	Samuel S. Cooper	Bessemer.
Grand Traverse	Traverse City	George H. Cross	Traverse City.
Gratiot	Ithaca	Marvin R. Salter	Ithaca.
Hillsdale	Hillsdale	Clayton A. Powell	Hillsdale.
Houghton	Houghton	Oscar J. Larson	Calumet.
Huron	Bad Axe	Paul Woodworth	Bad Axe.
Ingham	Mason	Lewis B. McArthur	Mason.
Ionia	Ionia	William K. Clute	Ionia.
Iosco	Tawas City	Charles A. Jahraus	Tawas City.
Iron	Crystal Falls	Charles H. Watson	Crystal Falls.
Isabella	Mt. Pleasant	Frank H. Dusenbury	Mt. Pleasant.
Jackson	Jackson	Forrest C. Badgley	Jackson.
Kalamazoo	Kalamazoo	H. Clair Jackson	Kalamazoo.
Kalkaska	Kalkaska	Ernest C. Smith	Kalkaska.
Kent	Grand Rapids	William B. Brown	Grand Rapids.
Keweenaw	Eagle River	Albert E. Petermann	Calumet.
Lake	Baldwin	William H. Wilson	Baldwin.
Lapeer	Lapeer	Enoch C. White	Lapeer.
Leelanau	Leland	Clinton L. Dayton	Leland.
Lenawee	Adrian	Theodore M. Joslin	Adrian.
Livingston	Howell	Edmund C. Shields	Howell.
Luce	Newberry	Louis H. Fead	Newberry.
Mackinac	St. Ignace	James J. Brown	St. Ignace.
Macomb	Mt. Clemens	Frans C. Kuhn	Mt. Clemens.

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SCHEDULE O.—*Concluded.*

Counties.	County seat.	Prosecuting attorneys.	Postoffice.
Manistee	Manistee	Elisha J. Richmond	Manistee.
Marquette	Marquette	Frank A. Bell	Negaunee.
Mason	Ludington	Addison A. Keiser	Ludington.
Mecosta	Big Rapids	Joseph Barton	Big Rapids.
Menominee	Menominee	Charles Line	Menominee.
Midland	Midland	Ray Hart	Midland.
Missaukee	Lake City	Francis O. Gaffney	Lake City.
Monroe	Monroe	Thornton Dixon	Monroe.
Montcalm	Stanton	Frank A. Miller	Stanton.
Montmorency	Atlanta	George S. Wilson	Atlanta.
Muskegon	Muskegon	George S. Lovelace	Muskegon.
Newaygo	Newaygo	George Luton	Newaygo.
Oakland	Pontiac	Kleber P. Rockwell	Pontiac.
Oceana	Hart	Wallace Foote	Hart.
Ogemaw	West Branch	Evender M. Harris	West Branch.
Ontonagon	Ontonagon	William R. Adams	Ontonagon.
Osceola	Hersey	B. Newton Savidge	Reed City.
Oscoeda	Mio	John A. McMahon	Mio.
Otsego	Gaylord	Albert M. Hilton	Gaylord.
Ottawa	Grand Haven	Patrick H. McBride	Holland.
Presque Isle	Rogers	Edwin T. Reed	Rogers.
Roscommon	Roscommon	Charles L. De Waele	Roscommon.
Saginaw	Saginaw	John F. O'Keefe	Saginaw.
Sanilac	Sanilac Centre	Fred A. Farr	Sanilac Centre.
Schoolcraft	Manistique	Virgil I. Hixson	Manistique.
Shiawassee	Corunna	Austin E. Richards	Corunna.
St. Clair	Port Huron	Burt D. Cady	Port Huron.
St. Joseph	Centreville	Roy J. Wade	Three Rivers.
Tuscola	Caro	Walter S. Wixson	Caro.
Van Buren	Paw Paw	David Anderson, Jr.	Paw Paw.
Washtenaw	Ann Arbor	John L. Duffy	Ann Arbor.
Wayne	Detroit	Ormond F. Hunt	Detroit.
Wexford	Cadillac	Fred C. Wetmore	Cadillac.

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INDEX

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TABLE OF CASES, 1904

Digitized by Google

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Digitized by Google

Digitized by Google

Digitized by Google

Digitized by Google

Digitized by Google

N.

O.

P.

Digitized by Google

Digitized by Google

Digitized by Google

U.

V.

W.

Digitized by Google

INDEX OF NAMES OF OPINIONS, 1904.

Digitized by Google

S.

V.

W.

Digitized by Google

GENERAL INDEX, 1904.

Digitized by Google

E.

F.

H.

I.

J.

L.

M.

Digitized by Google

O.

P.

Q.

R.

S

Digitized by Google

T.

W.

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